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Privacy Act 1993

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Justice.

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An Act to promote and protect individual privacy in general accordance with the Recommendation of the Council of the Organisation for Economic Co-operation and Development Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, and, in particular,—

(a) to establish certain principles with respect to—

(i) the collection, use, and disclosure, by public and private sector agencies, of information relating to individuals; and

(ii) access by each individual to information relating to that individual and held by public and private sector agencies; and

(b) to provide for the appointment of a Privacy Commissioner to investigate complaints about interferences with individual privacy; and

(c) to provide for matters incidental thereto

1 Short Title and commencement

(1) This Act may be cited as the Privacy Act 1993.

(2) Except as provided by section 31(2), this Act shall come into force on 1 July 1993.

Part 1
Preliminary provisions

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

action includes failure to act; and also includes any policy or practice

agency—

(a) means any person or body of persons, whether corporate or unincorporate, and whether in the public sector or the private sector; and, for the avoidance of doubt, includes a department; but

(b) does not include—

(i) the Sovereign; or

(ii) the Governor-General or the Administrator of the Government; or

(iii) the House of Representatives; or

(iv) a member of Parliament in his or her official capacity; or

(v) the Parliamentary Service Commission; or

(vi) the Parliamentary Service, except in relation to personal information about any employee or former employee of that agency in his or her capacity as such an employee; or

(vii) in relation to its judicial functions, a court; or

(viii) in relation to its judicial functions, a tribunal; or

(ix) an Ombudsman; or

(x) a Royal Commission; or

(xi) a commission of inquiry appointed by an Order in Council made under the Commissions of Inquiry Act 1908; or

(xii) a commission of inquiry or board of inquiry or court of inquiry or committee of inquiry appointed, pursuant to, and not by, any provision of an Act, to inquire into a specified matter; or

(xiii) in relation to its news activities, any news medium; or

(xiv) an inquiry to which section 6 of the Inquiries Act 2013 applies

collect does not include receipt of unsolicited information

Commissioner means the Privacy Commissioner referred to in section 12 of this Act and appointed in accordance with section 28(1)(b) of the Crown Entities Act 2004

correct, in relation to personal information, means to alter that information by way of correction, deletion, or addition; and **correction** has a corresponding meaning

department means a government department named in Part 1 of Schedule 1 of the Ombudsmen Act 1975

Deputy Commissioner means the Deputy Privacy Commissioner appointed under section 15

Director of Human Rights Proceedings means the Director of Human Rights Proceedings or alternate Director of Human Rights Proceedings appointed under section 20A of the Human Rights Act 1993

document means a document in any form; and includes—

(a) any writing on any material:

(b) any information recorded or stored by means of any tape recorder, computer, or other device; and any material subsequently derived from information so recorded or stored:

(c) any label, marking, or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means:

(d) any book, map, plan, graph, or drawing:

(e) any photograph, film, negative, tape, or other device in which 1 or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced

enactment means any provision of—

(a) any Act of Parliament; or

(b) any legislative instrument within the meaning of the Legislation Act 2012 made by Order in Council

Human Rights Review Tribunal or **Tribunal** means the Human Rights Review Tribunal continued by section 93 of the Human Rights Act 1993

individual means a natural person, other than a deceased natural person

individual concerned, in relation to personal information, means the individual to whom the information relates

information matching programme has the meaning given to it by section 97

information privacy principle or **principle** means any of the information privacy principles set out in section 6

information privacy request has the meaning given to it by section 33

intelligence and security agency means—

(a) the New Zealand Security Intelligence Service:

(b) the Government Communications Security Bureau

international organisation means any organisation of States or Governments of States or any organ or agency of any such organisation; and includes the Commonwealth Secretariat

local authority—

(a) means a local authority or public body named or specified in Schedule 1 of the Local Government Official Information and Meetings Act 1987; and

(b) includes—

(i) any committee or subcommittee or standing committee or special committee or joint standing committee or joint special committee which the local authority is empowered to appoint under its standing orders or rules of procedure or under any enactment or Order in Council constituting the local authority or regulating its proceedings; and

(ii) a committee of the whole local authority

Minister means a Minister of the Crown in his or her official capacity

news activity means—

(a) the gathering of news, or the preparation or compiling of articles or programmes of or concerning news, observations on news, or current affairs, for the purposes of dissemination to the public or any section of the public:

(b) the dissemination, to the public or any section of the public, of any article or programme of or concerning—

(i) news:

(ii) observations on news:

(iii) current affairs

news medium means any agency whose business, or part of whose business, consists of a news activity; but, in relation to principles 6 and 7, does not include Radio New Zealand Limited or Television New Zealand Limited

Ombudsman means an Ombudsman appointed under the Ombudsmen Act 1975

organisation—

(a) means—

(i) an organisation named in Part 2 of Schedule 1 of the Ombudsmen Act 1975; and

(ii) an organisation named in Schedule 1 of the Official Information Act 1982; and

(b) includes—

(i) the Office of the Clerk of the House of Representatives:

(ii) an intelligence and security agency

permanent resident of New Zealand means a person who—

(a) resides in New Zealand; and

(b) is not—

(i) a person to whom section 15 or 16 of the Immigration Act 2009 applies (except if the person has been granted a visa or entry permission in accordance with section 17 of that Act); or

(ii) a person obliged by or under that Act to leave New Zealand immediately or within a specified time; or

(iii) treated for the purposes of that Act as being unlawfully in New Zealand

personal information means information about an identifiable individual; and includes information relating to a death that is maintained by the Registrar-General pursuant to the Births, Deaths, Marriages, and Relationships Registration Act 1995, or any former Act (as defined by the Births, Deaths, Marriages, and Relationships Registration Act 1995)

public register has the meaning given to it in section 58

public register privacy principle has the meaning given to it in section 58

public sector agency—

(a) means an agency that is a Minister, a department, an organisation, or a local authority; and

(b) includes any agency that is an unincorporated body (being a board, council, committee, or other body)—

(i) which is established for the purpose of assisting or advising, or performing functions connected with, any public sector agency within the meaning of paragraph (a); and

(ii) which is so established in accordance with the provisions of any enactment or by any such public sector agency

publicly available information means personal information that is contained in a publicly available publication

publicly available publication means a magazine, book, newspaper, or other publication that is or will be generally available to members of the public; and includes a public register

responsible Minister means the Minister of Justice

serious threat, for the purposes of principle 10(d) or 11(f), means a threat that an agency reasonably believes to be a serious threat having regard to all of the following:

(a) the likelihood of the threat being realised; and

(b) the severity of the consequences if the threat is realised; and

(c) the time at which the threat may be realised

statutory officer means a person—

(a) holding or performing the duties of an office established by an enactment; or

(b) performing duties expressly conferred on that person by virtue of that person's office by an enactment

unique identifier means an identifier—

(a) that is assigned to an individual by an agency for the purposes of the operations of the agency; and

(b) that uniquely identifies that individual in relation to that agency;—

but, for the avoidance of doubt, does not include an individual's name used to identify that individual

working day means any day of the week other than—

(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and

(ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

(b) a day in the period commencing with 25 December in any year and ending with 15 January in the following year.

(2) For the avoidance of doubt, it is hereby declared that the fact that any body (being a commission of inquiry or board of inquiry or court of inquiry or committee of inquiry appointed, by any provision of an Act, to inquire into a specified matter) is not excluded from the definition of the term agency in subsec-

tion (1) by virtue of subparagraph (xii) of paragraph (b) of that definition does not mean that such a body is not excluded from that definition by virtue of subparagraph (vii) or subparagraph (viii) of that paragraph.

Compare: 1982 No 156 s 2; 1983 No 83 s 2; 1985 No 128 s 71(3); 1987 No 8 s 2; 1987 No 174 s 2

Section 2(1) **agency** paragraph (b)(viii): amended, on 3 September 1996, by section 2(1) of the Privacy Amendment Act 1996 (1996 No 142).

Section 2(1) **agency** paragraph (b)(xiv): inserted, on 27 August 2013, by section 39 of the Inquiries Act 2013 (2013 No 60).

Section 2(1) **Commissioner**: replaced, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 2(1) **Complaints Review Tribunal** or **Tribunal**: repealed, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 2(1) **Director of Human Rights Proceedings**: inserted, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 2(1) **enactment** paragraph (b): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

Section 2(1) **Human Rights Review Tribunal** or **Tribunal**: inserted, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 2(1) **intelligence and security agency**: inserted, on 28 September 2017, by section 313(1) of the Intelligence and Security Act 2017 (2017 No 10).

Section 2(1) **intelligence organisation**: repealed, on 28 September 2017, by section 313(1) of the Intelligence and Security Act 2017 (2017 No 10).

Section 2(1) **news medium**: amended, on 5 July 1996, by section 2 of the Radio New Zealand Act (No 2) 1995 (1995 No 53).

Section 2(1) **organisation** paragraph (b)(ii): replaced, on 28 September 2017, by section 313(2) of the Intelligence and Security Act 2017 (2017 No 10).

Section 2(1) **permanent resident of New Zealand**: replaced, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Section 2(1) **personal information**: replaced, on 3 September 1996, by section 2(3) of the Privacy Amendment Act 1996 (1996 No 142).

Section 2(1) **personal information**: amended, on 27 February 2013, by section 4(1) of the Privacy Amendment Act 2013 (2013 No 1).

Section 2(1) **personal information**: amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 2(1) **Proceedings Commissioner**: repealed, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 2(1) **serious threat**: inserted, on 27 February 2013, by section 4(2) of the Privacy Amendment Act 2013 (2013 No 1).

Section 2(1) **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

3 Information held by agency

(1) Subject to subsection (2), information that is held by an officer or employee or member of an agency in that person's capacity as such an officer or employee or member or in that person's capacity as a statutory officer shall be deemed, for the purposes of this Act, to be held by the agency of which that person is an officer or employee or member.

(2) Nothing in subsection (1) applies in respect of any information that any officer or employee or member of a public sector agency would not hold but for that person's membership of, or connection with, a body other than a public sector agency, except where that membership or connection is in that person's capacity as an officer or an employee or a member of that public sector agency or as a statutory officer.

(3) Nothing in subsection (1) applies in respect of any information that any officer or employee or member of any agency (not being a public sector agency) would not hold but for that person's membership of, or connection with, any other agency, except where that membership or connection is in that person's capacity as an officer or an employee or a member of that first-mentioned agency.

(4) For the purposes of this Act, where an agency holds information—

(a) solely as agent; or

(b) for the sole purpose of safe custody; or

(c) for the sole purpose of processing the information on behalf of another agency,—

and does not use or disclose the information for its own purposes, the information shall be deemed to be held by the agency on whose behalf that information is so held or, as the case may be, is so processed.

Compare: 1982 No 156 s 2(2)–(4)

4 Actions of, and disclosure of information to, staff of agency, etc

For the purposes of this Act, an action done by, or information disclosed to, a person employed by, or in the service of, an agency in the performance of the duties of the person's employment shall be treated as having been done by, or disclosed to, the agency.

Compare: Privacy Act 1988 s 8(1) (Aust)

5 Act to bind the Crown

This Act binds the Crown.

Part 2
Information privacy principles

6 Information privacy principles

The information privacy principles are as follows:

Information privacy principles

Principle 1

Purpose of collection of personal information

Personal information shall not be collected by any agency unless—

(a) the information is collected for a lawful purpose connected with a function or activity of the agency; and

(b) the collection of the information is necessary for that purpose.

Principle 2

Source of personal information

(1) Where an agency collects personal information, the agency shall collect the information directly from the individual concerned.

(2) It is not necessary for an agency to comply with subclause (1) if the agency believes, on reasonable grounds,—

(a) that the information is publicly available information; or

(b) that the individual concerned authorises collection of the information from someone else; or

(c) that non-compliance would not prejudice the interests of the individual concerned; or

(d) that non-compliance is necessary—

(i) to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences; or

(ii) for the enforcement of a law imposing a pecuniary penalty; or

(iii) for the protection of the public revenue; or

(iv) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); or

(e) that compliance would prejudice the purposes of the collection; or

(f) that compliance is not reasonably practicable in the circumstances of the particular case; or

(g) that the information—

(i) will not be used in a form in which the individual concerned is identified; or

(ii) will be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned; or

(h) that the collection of the information is in accordance with an authority granted under section 54.

Principle 3

Collection of information from subject

(1) Where an agency collects personal information directly from the individual concerned, the agency shall take such steps (if any) as are, in the circumstances, reasonable to ensure that the individual concerned is aware of—

(a) the fact that the information is being collected; and

(b) the purpose for which the information is being collected; and

(c) the intended recipients of the information; and

(d) the name and address of—

(i) the agency that is collecting the information; and

(ii) the agency that will hold the information; and

(e) if the collection of the information is authorised or required by or under law,—

(i) the particular law by or under which the collection of the information is so authorised or required; and

(ii) whether or not the supply of the information by that individual is voluntary or mandatory; and

(f) the consequences (if any) for that individual if all or any part of the requested information is not provided; and

(g) the rights of access to, and correction of, personal information provided by these principles.

(2) The steps referred to in subclause (1) shall be taken before the information is collected or, if that is not practicable, as soon as practicable after the information is collected.

(3) An agency is not required to take the steps referred to in subclause (1) in relation to the collection of information from an individual if that agency has taken those steps in relation to the collection, from that individual, of the same information or information of the same kind, on a recent previous occasion.

(4) It is not necessary for an agency to comply with subclause (1) if the agency believes, on reasonable grounds,—

(a) that non-compliance is authorised by the individual concerned; or

(b) that non-compliance would not prejudice the interests of the individual concerned; or

(c) that non-compliance is necessary—

(i) to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences; or

(ii) for the enforcement of a law imposing a pecuniary penalty; or

(iii) for the protection of the public revenue; or

(iv) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); or

(d) that compliance would prejudice the purposes of the collection; or

(e) that compliance is not reasonably practicable in the circumstances of the particular case; or

(f) that the information—

(i) will not be used in a form in which the individual concerned is identified; or

(ii) will be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned.

Principle 4

Manner of collection of personal information

Personal information shall not be collected by an agency—

(a) by unlawful means; or

(b) by means that, in the circumstances of the case,—

(i) are unfair; or

(ii) intrude to an unreasonable extent upon the personal affairs of the individual concerned.

Principle 5

Storage and security of personal information

An agency that holds personal information shall ensure—

(a) that the information is protected, by such security safeguards as it is reasonable in the circumstances to take, against—

(i) loss; and

(ii) access, use, modification, or disclosure, except with the authority of the agency that holds the information; and

(iii) other misuse; and

(b) that if it is necessary for the information to be given to a person in connection with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or unauthorised disclosure of the information.

Principle 6

Access to personal information

(1) Where an agency holds personal information in such a way that it can readily be retrieved, the individual concerned shall be entitled—

(a) to obtain from the agency confirmation of whether or not the agency holds such personal information; and

(b) to have access to that information.

(2) Where, in accordance with subclause (1)(b), an individual is given access to personal information, the individual shall be advised that, under principle 7, the individual may request the correction of that information.

(3) The application of this principle is subject to the provisions of Parts 4 and 5.

Principle 7

Correction of personal information

(1) Where an agency holds personal information, the individual concerned shall be entitled—

(a) to request correction of the information; and

(b) to request that there be attached to the information a statement of the correction sought but not made.

(2) An agency that holds personal information shall, if so requested by the individual concerned or on its own initiative, take such steps (if any) to correct that information as are, in the circumstances, reasonable to ensure that, having regard to the purposes for which the information may lawfully be used, the information is accurate, up to date, complete, and not misleading.

(3) Where an agency that holds personal information is not willing to correct that information in accordance with a request by the individual concerned, the agency shall, if so requested by the individual concerned, take such steps (if any) as are reasonable in the circumstances to attach to the information, in such a manner that it will always be read with the information, any statement provided by that individual of the correction sought.

(4) Where the agency has taken steps under subclause (2) or subclause (3), the agency shall, if reasonably practicable, inform each person or body or agency to whom the personal information has been disclosed of those steps.

(5) Where an agency receives a request made pursuant to subclause (1), the agency shall inform the individual concerned of the action taken as a result of the request.

Principle 8

Accuracy, etc, of personal information to be checked before use

An agency that holds personal information shall not use that information without taking such steps (if any) as are, in the circumstances, reasonable to ensure that, having regard to the purpose for which the information is proposed to be used, the information is accurate, up to date, complete, relevant, and not misleading.

Principle 9

Agency not to keep personal information for longer than necessary

An agency that holds personal information shall not keep that information for longer than is required for the purposes for which the information may lawfully be used.

Principle 10

Limits on use of personal information

(1) An agency that holds personal information that was obtained in connection with one purpose shall not use the information for any other purpose unless the agency believes, on reasonable grounds,—

(a) that the source of the information is a publicly available publication and that, in the circumstances of the case, it would not be unfair or unreasonable to use the information; or

(b) that the use of the information for that other purpose is authorised by the individual concerned; or

(c) that non-compliance is necessary—

(i) to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences; or

(ii) for the enforcement of a law imposing a pecuniary penalty; or

(iii) for the protection of the public revenue; or

(iv) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); or

(d) that the use of the information for that other purpose is necessary to prevent or lessen a serious threat (as defined in section 2(1)) to—

(i) public health or public safety; or

(ii) the life or health of the individual concerned or another individual; or

(e) that the purpose for which the information is used is directly related to the purpose in connection with which the information was obtained; or

(f) that the information—

(i) is used in a form in which the individual concerned is not identified; or

(ii) is used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned; or

(g) that the use of the information is in accordance with an authority granted under section 54.

(2) In addition to subclause (1), an intelligence and security agency that holds personal information that was obtained in connection with one purpose may use the information for any other purpose (a **secondary purpose**) if the agency believes on reasonable grounds that the use of the information for the secondary purpose is necessary to enable the agency to perform any of its functions.

Principle 11

Limits on disclosure of personal information

An agency that holds personal information shall not disclose the information to a person or body or agency unless the agency believes, on reasonable grounds,—

(a) that the disclosure of the information is one of the purposes in connection with which the information was obtained or is directly related to the purposes in connection with which the information was obtained; or

(b) that the source of the information is a publicly available publication and that, in the circumstances of the case, it would not be unfair or unreasonable to disclose the information; or

(c) that the disclosure is to the individual concerned; or

(d) that the disclosure is authorised by the individual concerned; or

(e) that non-compliance is necessary—

(i) to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences; or

(ii) for the enforcement of a law imposing a pecuniary penalty; or

(iii) for the protection of the public revenue; or

(iv) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); or

(f) that the disclosure of the information is necessary to prevent or lessen a serious threat (as defined in section 2(1)) to—

(i) public health or public safety; or

(ii) the life or health of the individual concerned or another individual; or

(fa) that the disclosure of the information is necessary to enable an intelligence and security agency to perform any of its functions; or

(g) that the disclosure of the information is necessary to facilitate the sale or other disposition of a business as a going concern; or

(h) that the information—

(i) is to be used in a form in which the individual concerned is not identified; or

(ii) is to be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned; or

(i) that the disclosure of the information is in accordance with an authority granted under section 54.

Principle 12

Unique identifiers

(1) An agency shall not assign a unique identifier to an individual unless the assignment of that identifier is necessary to enable the agency to carry out any 1 or more of its functions efficiently.

(2) An agency shall not assign to an individual a unique identifier that, to that agency's knowledge, has been assigned to that individual by another agency, unless those 2 agencies are associated persons within the meaning of subpart YB of the Income Tax Act 2007.

(3) An agency that assigns unique identifiers to individuals shall take all reasonable steps to ensure that unique identifiers are assigned only to individuals whose identity is clearly established.

(4) An agency shall not require an individual to disclose any unique identifier assigned to that individual unless the disclosure is for one of the purposes in connection with which that unique identifier was assigned or for a purpose that is directly related to one of those purposes.

Section 6 principle 2(2)(d)(iv): amended, on 3 September 1996, by section 3 of the Privacy Amendment Act 1996 (1996 No 142).

Section 6 principle 3(4)(c)(iv): amended, on 3 September 1996, by section 3 of the Privacy Amendment Act 1996 (1996 No 142).

Section 6 principle 10(1)(a): amended, on 3 July 2015, by section 40(1) of the Harmful Digital Communications Act 2015 (2015 No 63).

Section 6 principle 10(1)(c)(iv): amended, on 3 September 1996, by section 3 of the Privacy Amendment Act 1996 (1996 No 142).

Section 6 principle 10(1)(d): amended, on 27 February 2013, by section 5(1) of the Privacy Amendment Act 2013 (2013 No 1).

Section 6 principle 10(2): inserted, on 28 September 2017, by section 314(1) of the Intelligence and Security Act 2017 (2017 No 10).

Section 6 principle 11(b): amended, on 3 July 2015, by section 40(2) of the Harmful Digital Communications Act 2015 (2015 No 63).

Section 6 principle 11(e)(iv): amended, on 3 September 1996, by section 3 of the Privacy Amendment Act 1996 (1996 No 142).

Section 6 principle 11(f): amended, on 27 February 2013, by section 5(2) of the Privacy Amendment Act 2013 (2013 No 1).

Section 6 principle 11(fa): inserted, on 28 September 2017, by section 314(2) of the Intelligence and Security Act 2017 (2017 No 10).

Section 6 principle 12(2): amended, on 1 April 2010, by section 861 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section 6 principle 12(2): amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

7 Savings

(1) Nothing in principle 6 or principle 11 derogates from any provision that is contained in any enactment and that authorises or requires personal information to be made available.

(2) Nothing in principle 6 or principle 11 derogates from any provision that is contained in any other Act of Parliament and that—

(a) imposes a prohibition or restriction in relation to the availability of personal information; or

(b) regulates the manner in which personal information may be obtained or made available.

(3) Nothing in principle 6 or principle 11 derogates from any provision—

(a) that is contained in any legislative instrument within the meaning of the Legislation Act 2012 made by Order in Council and in force—

(i) in so far as those principles apply to a department, a Minister, an organisation, or a public sector agency (as defined in paragraph (b) of the definition of that term in section 2(1)) that is established for the purposes of assisting or advising, or performing functions connected with, a department, a Minister, or an organisation, immediately before 1 July 1983; and

(ii) in so far as those principles apply to a local authority or a public sector agency (as so defined) that is established for the purposes of assisting or advising, or performing functions connected with, a local authority, immediately before 1 March 1988; and

(iii) in so far as those principles apply to any other agency, immediately before 1 July 1993; and

(b) that—

(i) imposes a prohibition or restriction in relation to the availability of personal information; or

(ii) regulates the manner in which personal information may be obtained or made available.

(4) An action is not a breach of any of principles 1 to 5, 7 to 10, and 12 if that action is authorised or required by or under law.

(5) Nothing in principle 7 applies in respect of any information held by the Department of Statistics, where that information was obtained pursuant to the Statistics Act 1975.

(6) Subject to the provisions of Part 7, nothing in any of the information privacy principles shall apply in respect of a public register.

Section 7(3)(a): amended, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

8 Application of information privacy principles

(1) Subject to subsection (4), principles 1 to 4 apply only in relation to information collected after the commencement of this section.

(2) Subject to section 9, principles 5 to 9 and principle 11 apply in relation to information held by an agency, whether the information was obtained before, or is obtained after, the commencement of this section.

(3) Principle 10 applies only in relation to information obtained after the commencement of this section.

(4) Nothing in principle 3 shall apply in relation to the collection, by means of any printed form, of any personal information, if the form was printed before the commencement of this section and is used, before 1 July 1995, for the purpose of collecting personal information.

(5) Subclauses (1) to (3) of principle 12 apply only in relation to the assignment of unique identifiers after the commencement of this section.

(6) Subclause (4) of principle 12 applies to any unique identifier, whether assigned before or after the commencement of this section.

9 Postponement of application of principle 11 to lists used for direct marketing

(1) Nothing in principle 11 shall apply, before 1 July 1996, in relation to the disclosure, by any agency, of personal information collected before 1 July 1993 for direct marketing purposes, where that disclosure is made to another agency for the purpose of enabling that other agency to engage in direct marketing.

(2) For the purposes of subsection (1), **direct marketing** means—

(a) the offering of goods or services; or

(b) the advertising of the availability of goods or services; or

(c) the solicitation of donations or contributions for charitable, cultural, philanthropic, recreational, political, or other purposes,—

by means of—

(d) information or goods sent to any person by mail, facsimile transmission, electronic mail, or other similar means of communication, where the information or goods are addressed to a specific person or specific persons by name; or

(e) telephone calls made to specific persons by name.

10 Application of principles to information held overseas

(1) For the purposes of principle 5 and principles 8 to 11, information held by an agency includes information that is held outside New Zealand by that agency, where that information has been transferred out of New Zealand by that agency or any other agency.

(2) For the purposes of principles 6 and 7, information held by an agency includes information held outside New Zealand by that agency.

(3) Nothing in this section shall apply to render an agency in breach of any of the information privacy principles in respect of any action that the agency is required to take by or under the law of any place outside New Zealand.

11 Enforceability of principles

(1) The entitlements conferred on an individual by subclause (1) of principle 6, in so far as that subclause relates to personal information held by a public sector agency, are legal rights, and are enforceable accordingly in a court of law.

(2) Subject to subsection (1), the information privacy principles do not confer on any person any legal right that is enforceable in a court of law.

Part 3
Privacy Commissioner

12 Privacy Commissioner

(1) There shall be a Commissioner called the Privacy Commissioner.

(2) The Commissioner is—

(a) a corporation sole; and

(b) a Crown entity for the purposes of section 7 of the Crown Entities Act 2004; and

(c) the board for the purposes of the Crown Entities Act 2004.

(3) The Crown Entities Act 2004 applies to the Commissioner except to the extent that this Act expressly provides otherwise.

(4) *[Repealed]*

Compare: 1991 No 126 s 4

Section 12(2): replaced, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 12(3): replaced, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 12(4): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

13 Functions of Commissioner

(1) The functions of the Commissioner shall be—

(a) to promote, by education and publicity, an understanding and acceptance of the information privacy principles and of the objects of those principles:

(b) when requested to do so by an agency, to conduct an audit of personal information maintained by that agency for the purpose of ascertaining whether or not the information is maintained according to the information privacy principles:

(c) to monitor the use of unique identifiers, and to report to the Prime Minister from time to time on the results of that monitoring, including any recommendation relating to the need for, or desirability of taking, legislative, administrative, or other action to give protection, or better protection, to the privacy of the individual:

(d) to maintain, and to publish, in accordance with section 21, directories of personal information:

(e) to monitor compliance with the public register privacy principles, to review those principles from time to time with particular regard to the Council of Europe Recommendations on Communication to Third Parties of Personal Data Held by Public Bodies (Recommendation R (91) 10), and to report to the responsible Minister from time to time on the need for or desirability of amending those principles:

(f) to examine any proposed legislation that makes provision for—

(i) the collection of personal information by any public sector agency; or

(ii) the disclosure of personal information by one public sector agency to any other public sector agency,—

or both; to have particular regard, in the course of that examination, to the matters set out in section 98, in any case where the Commissioner considers that the information might be used for the purposes of an information matching programme; and to report to the responsible Minister the results of that examination:

(g) for the purpose of promoting the protection of individual privacy, to undertake educational programmes on the Commissioner's own behalf or in co-operation with other persons or authorities acting on behalf of the Commissioner:

(h) to make public statements in relation to any matter affecting the privacy of the individual or of any class of individuals:

(i) to receive and invite representations from members of the public on any matter affecting the privacy of the individual:

(j) to consult and co-operate with other persons and bodies concerned with the privacy of the individual:

(k) to make suggestions to any person in relation to any matter that concerns the need for, or the desirability of, action by that person in the interests of the privacy of the individual:

(l) to provide advice (with or without a request) to a Minister or an agency on any matter relevant to the operation of this Act:

(m) to inquire generally into any matter, including any enactment or law, or any practice, or procedure, whether governmental or non-governmental, or any technical development, if it appears to the Commissioner that the privacy of the individual is being, or may be, infringed thereby:

(n) to undertake research into, and to monitor developments in, data processing and computer technology to ensure that any adverse effects of such developments on the privacy of individuals are minimised, and to report to the responsible Minister the results of such research and monitoring:

(o) to examine any proposed legislation (including subordinate legislation) or proposed policy of the Government that the Commissioner considers may affect the privacy of individuals, and to report to the responsible Minister the results of that examination:

(p) to report (with or without request) to the Prime Minister from time to time on any matter affecting the privacy of the individual, including the need for, or desirability of, taking legislative, administrative, or other action to give protection or better protection to the privacy of the individual:

(q) to report to the Prime Minister from time to time on the desirability of the acceptance, by New Zealand, of any international instrument relating to the privacy of the individual:

(r) to report to the Prime Minister on any other matter relating to privacy that, in the Commissioner's opinion, should be drawn to the Prime Minister's attention:

(s) to gather such information as in the Commissioner's opinion will assist the Commissioner in carrying out the Commissioner's functions under this Act:

(t) to do anything incidental or conducive to the performance of any of the preceding functions:

(u) to exercise and perform such other functions, powers, and duties as are conferred or imposed on the Commissioner by or under this Act or any other enactment.

(1AA) Without limiting subsection (1), the functions of the Commissioner in relation to information sharing under Part 9A are—

(a) to make submissions on an information sharing agreement for which approval by Order in Council under section 96J is being sought:

(b) to report to a relevant Minister, under section 96P(1), on any matter relating to privacy that arises or is likely to arise in respect of an approved information sharing agreement and on any other matter specified in that section:

(c) to publish a copy of a report referred to in paragraph (b) in accordance with section 96P(3):

(d) to receive and investigate complaints about any alleged interference with privacy under an approved information sharing agreement in accordance with Part 8:

(e) if appropriate under the circumstances, to exempt an agency, under section 96R, from the requirement to give notice of adverse action under section 96Q or to reduce the period of notice required under that section:

(f) to conduct a review under section 96W on the operation of an approved information sharing agreement:

(g) to report to a relevant Minister under section 96X on the findings of a review conducted under section 96W:

(h) to require a public sector agency to report, in accordance with section 96S, on the operation of each approved information sharing agreement for which it is the lead agency.

(1AB) In subsection (1AA), **adverse action**, **approved information sharing agreement**, **information sharing agreement**, **lead agency**, and **relevant Minister** have the meanings given to them by section 96C.

(1A) Except as expressly provided otherwise in this or another Act, the Commissioner must act independently in performing his or her statutory functions and duties, and exercising his or her statutory powers, under—

(a) this Act; and

(b) any other Act that expressly provides for the functions, powers, or duties of the Commissioner (other than the Crown Entities Act 2004).

(2) The Commissioner may from time to time, in the public interest or in the interests of any person or body of persons, publish reports relating generally to the exercise of the Commissioner's functions under this Act or to any case or cases investigated by the Commissioner, whether or not the matters to be dealt with in any such report have been the subject of a report to the responsible Minister or the Prime Minister.

Compare: 1991 No 126 s 5

Section 13(1AA): inserted, on 27 February 2013, by section 6 of the Privacy Amendment Act 2013 (2013 No 1).

Section 13(1AB): inserted, on 27 February 2013, by section 6 of the Privacy Amendment Act 2013 (2013 No 1).

Section 13(1A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

14 Commissioner to have regard to certain matters

In the performance of his or her functions, and the exercise of his or her powers, under this Act, the Commissioner shall—

(a) have due regard for the protection of important human rights and social interests that compete with privacy, including the general desirability of a free flow of information and the recognition of the right of government and business to achieve their objectives in an efficient way; and

(b) take account of international obligations accepted by New Zealand, including those concerning the international technology of communications; and

(c) consider any developing general international guidelines relevant to the better protection of individual privacy; and

(d) have due regard to the information privacy principles and the public register privacy principles.

Compare: 1991 No 126 s 7; Privacy Act 1988 s 29 (Aust)

15 Deputy Commissioner

(1) The Governor-General may, on the recommendation of the Minister, appoint a deputy to the person appointed as Commissioner.

(2) Part 2 of the Crown Entities Act 2004, except section 46, applies to the appointment and removal of a Deputy Commissioner in the same manner as it applies to the appointment and removal of a Commissioner.

(3) Subject to the control of the Commissioner, the Deputy Commissioner shall have and may exercise all the powers, duties, and functions of the Commissioner under this Act or any other enactment.

(4) On the occurrence from any cause of a vacancy in the office of the Commissioner (whether by reason of death, resignation, or otherwise), and in the case of the absence from duty of the Commissioner (from whatever cause arising), and so long as any such vacancy or absence continues, the Deputy Commis-

sioner shall have and may exercise all the powers, duties, and functions of the Commissioner.

(5) *[Repealed]*

(6) Subject to this Act, the Deputy Commissioner shall be entitled to all the protections, privileges, and immunities of the Commissioner.

Section 15(1): replaced, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 15(2): replaced, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 15(3): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 15(5): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

16 Term of office

[Repealed]

Section 16: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

17 Continuation in office after term expires

[Repealed]

Section 17: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

18 Vacation of office

[Repealed]

Section 18: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

19 Holding of other offices

(1) In addition to the matters in section 30(2) of the Crown Entities Act 2004, a member of a local authority is disqualified from being appointed as Commissioner.

(2) The appointment of a Judge as the Commissioner, or service by a Judge as the Commissioner, does not affect that person's tenure of his or her judicial office or his or her rank, title, status, precedence, salary, annual or other allowances, or other rights or privileges as a Judge (including those in relation to superannuation), and, for all purposes, that person's service as the Commissioner shall be taken to be service as a Judge.

Compare: 1991 No 126 ss 8, 10

Section 19(1): replaced, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

20 Powers relating to declaratory judgments

(1) If at any time it appears to the Commissioner that it may be desirable to obtain a declaratory judgment or order of the High Court in accordance with the Declaratory Judgments Act 1908, he or she may refer the matter to the Proceedings Commissioner for the purpose of deciding whether proceedings under that Act should be instituted.

(2) In respect of any matter referred to the Proceedings Commissioner under subsection (1), the Proceedings Commissioner shall, notwithstanding anything to the contrary in the Declaratory Judgments Act 1908 or any other enactment or rule of law, have sufficient standing to institute proceedings under that Act whether or not the matter is one within his or her own functions and powers under this Act or under the Human Rights Commission Act 1977.

Compare: 1977 No 49 s 5A; 1983 No 56 s 3

21 Directories of personal information

(1) The Commissioner may from time to time, as the Commissioner thinks fit, cause to be published 1 or more publications that include all or any of the following information:

(a) the nature of any personal information held by any agency:

(b) the purpose for which any personal information is held by any agency:

(c) the classes of individuals about whom personal information is held by any agency:

(d) the period for which any type of personal information is held by any agency:

(e) the individuals who are entitled to have access to any personal information held by any agency, and the conditions under which they are entitled to have that access:

(f) the steps that should be taken by any individual wishing to obtain access to any personal information held by any agency.

(2) The Commissioner may from time to time bring the material contained in any publication published pursuant to subsection (1) up to date, either by causing to be published a new edition of that publication or by causing to be published supplementary material.

(3) In determining whether or not any publication should be published pursuant to this section, the Commissioner shall have regard, among other things, to the need to assist members of the public to obtain personal information and to effectively exercise their rights under this Act.

(4) Nothing in this section requires the publication of any information for which good reason for withholding would exist under section 27 or section 28.

22 Commissioner may require agency to supply information

For the purpose of—

(a) the publication of any directory or any supplementary material pursuant to section 21; or

(b) enabling the Commissioner to respond to enquiries from the public seeking information of the kind referred to in any of paragraphs (a) to (f) of section 21(1),—

the Commissioner may, from time to time, require any agency to supply to the Commissioner such information as the Commissioner may reasonably require in relation to the personal information held by that agency, and the agency shall comply with that requirement.

23 Privacy officers

It shall be the responsibility of each agency to ensure that there are, within that agency, 1 or more individuals whose responsibilities include—

(a) the encouragement of compliance, by the agency, with the information privacy principles:

(b) dealing with requests made to the agency pursuant to this Act:

(c) working with the Commissioner in relation to investigations conducted pursuant to Part 8 in relation to the agency:

(d) otherwise ensuring compliance by the agency with the provisions of this Act.

24 Annual report

(1) Without limiting the right of the Commissioner to report at any other time, but subject to section 120, the annual report of the Commissioner under section 150 of the Crown Entities Act 2004 must include a report with respect to the operation of this Act during the year to which the report relates.

(2) *[Repealed]*

Compare: 1991 No 126 s 12

Section 24(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 24(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

25 Further provisions relating to Commissioner

The provisions of Schedule 1 shall have effect in relation to the Commissioner and the Commissioner's affairs.

26 Review of operation of Act

(1) As soon as practicable after the expiry of the period of 3 years beginning on the commencement of this section, and then at intervals of not more than 5 years, the Commissioner shall—

(a) review the operation of this Act since—

(i) the date of the commencement of this section (in the case of the first review carried out under this paragraph); or

(ii) the date of the last review carried out under this paragraph (in the case of every subsequent review); and

(b) consider whether any amendments to this Act are necessary or desirable; and

(c) report the Commissioner's findings to the responsible Minister.

(2) As soon as practicable after receiving a report from the Commissioner under subsection (1)(c), the responsible Minister shall lay a copy of that report before the House of Representatives.

Part 4
Good reasons for refusing access to personal information

27 Security, defence, international relations, etc

(1) An agency may refuse to disclose any information requested pursuant to principle 6 if the disclosure of the information would be likely—

(a) to prejudice the security or defence of New Zealand or the international relations of the Government of New Zealand; or

(b) to prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by—

(i) the Government of any other country or any agency of such a Government; or

(ii) any international organisation; or

(c) to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or

(d) to endanger the safety of any individual.

(2) An agency may refuse to disclose any information requested pursuant to principle 6 if the disclosure of the information would be likely—

(a) to prejudice the security or defence of—

(i) the self-governing State of the Cook Islands; or

(ii) the self-governing State of Niue; or

(iii) Tokelau; or

(iv) the Ross Dependency; or

(b) to prejudice relations between any of the Governments of—

(i) New Zealand:

(ii) the self-governing State of the Cook Islands:

(iii) the self-governing State of Niue; or

(c) to prejudice the international relations of the Governments of—

(i) the self-governing State of the Cook Islands; or

(ii) the self-governing State of Niue.

Compare: 1982 No 156 s 27(1)(a); 1987 No 8 s 4(2); 1987 No 174 s 26(1)(a)

28 Trade secrets

(1) Subject to subsection (2), an agency may refuse to disclose any information requested pursuant to principle 6 if the withholding of the information is necessary to protect information where the making available of the information—

(a) would disclose a trade secret; or

(b) would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.

(2) Information may not be withheld under subsection (1) if, in the circumstances of the particular case, the withholding of that information is outweighed by other considerations which render it desirable, in the public interest, to make the information available.

Compare: 1982 No 156 s 27(1)(a); 1987 No 8 s 4(2); 1987 No 174 s 26(1)(a)

29 Other reasons for refusal of requests

(1) An agency may refuse to disclose any information requested pursuant to principle 6 if—

(a) the disclosure of the information would involve the unwarranted disclosure of the affairs of another individual or of a deceased individual; or

(b) the disclosure of the information or of information identifying the person who supplied it, being evaluative material, would breach an express or implied promise—

(i) which was made to the person who supplied the information; and

(ii) which was to the effect that the information or the identity of the person who supplied it or both would be held in confidence; or

(c) after consultation undertaken (where practicable) by or on behalf of the agency with an individual's medical practitioner, the agency is satisfied that—

(i) the information relates to that individual; and

(ii) the disclosure of the information (being information that relates to the physical or mental health of the individual who requested it) would be likely to prejudice the physical or mental health of that individual; or

(d) in the case of an individual under the age of 16, the disclosure of that information would be contrary to that individual's interests; or

(e) the disclosure of that information (being information in respect of an individual who has been convicted of an offence or is or has been detained in custody) would be likely to prejudice the safe custody or the rehabilitation of that individual; or

(f) the disclosure of the information would breach legal professional privilege; or

(g) in the case of a request made to Radio New Zealand Limited or Television New Zealand Limited, the disclosure of the information would be likely to reveal the source of information of a bona fide news media journalist and either—

(i) the information is subject to an obligation of confidence; or

(ii) the disclosure of the information would be likely to prejudice the supply of similar information, or information from the same source; or

(h) the disclosure of the information, being information contained in material placed in any library or museum or archive, would breach a condition subject to which that material was so placed; or

(i) the disclosure of the information would constitute contempt of court or of the House of Representatives; or

(ia) the request is made by a defendant or a defendant's agent and is—

(i) for information that could be sought by the defendant under the Criminal Disclosure Act 2008; or

(ii) for information that could be sought by the defendant under that Act and that has been disclosed to, or withheld from, the defendant under that Act; or

(j) the request is frivolous or vexatious, or the information requested is trivial.

(2) An agency may refuse a request made pursuant to principle 6 if—

(a) the information requested is not readily retrievable; or

(b) the information requested does not exist or cannot be found; or

(c) the information requested is not held by the agency and the person dealing with the request has no grounds for believing that the information is either—

(i) held by another agency; or

(ii) connected more closely with the functions or activities of another agency.

(3) For the purposes of subsection (1)(b), the term **evaluative material** means evaluative or opinion material compiled solely—

(a) for the purpose of determining the suitability, eligibility, or qualifications of the individual to whom the material relates—

(i) for employment or for appointment to office; or

(ii) for promotion in employment or office or for continuance in employment or office; or

(iii) for removal from employment or office; or

(iv) for the awarding of contracts, awards, scholarships, honours, or other benefits; or

(b) for the purpose of determining whether any contract, award, scholarship, honour, or benefit should be continued, modified, or cancelled; or

(c) for the purpose of deciding whether to insure any individual or property or to continue or renew the insurance of any individual or property.

(4) In subsection (1)(c), **medical practitioner** means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine.

Compare: 1982 No 156 ss 18(c)(ii), (e), (g), (h), 27(1)(b)–(h), (2); 1987 No 8 s 15(1); 1987 No 174 ss 17(c)(ii), (e), (g), (h), 26(1)(b)–(h), (2)

Section 29(1)(g): amended, on 5 July 1996, by section 2 of the Radio New Zealand Act (No 2) 1995 (1995 No 53).

Section 29(1)(ia): inserted, on 29 June 2009, by section 39(1) of the Criminal Disclosure Act 2008 (2008 No 38).

Section 29(4): inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

30 Refusal not permitted for any other reason

Subject to sections 7, 31, and 32, no reasons other than 1 or more of the reasons set out in sections 27 to 29 justifies a refusal to disclose any information requested pursuant to principle 6.

Compare: 1982 No 156 s 27(1A); 1987 No 8 s 15(2); 1987 No 174 s 26(2)

31 Restriction where person sentenced to imprisonment

[Repealed]

Section 31: repealed (without coming into force), on 29 June 2009, by section 39(2) of the Criminal Disclosure Act 2008 (2008 No 38).

32 Information concerning existence of certain information

Where a request made pursuant to principle 6 relates to information to which section 27 or section 28 applies, or would, if it existed, apply, the agency dealing with the request may, if it is satisfied that the interest protected by section 27 or section 28 would be likely to be prejudiced by the disclosure of the existence or non-existence of such information, give notice in writing to the applicant that it neither confirms nor denies the existence or non-existence of that information.

Compare: 1982 No 156 s 10; 1987 No 8 s 4(2); 1987 No 174 s 8

Part 5
Procedural provisions relating to access to and correction of personal information

33 Application

This Part applies to the following requests (in this Act referred to as information privacy requests):

(a) a request made pursuant to subclause (1)(a) of principle 6 to obtain confirmation of whether or not an agency holds personal information:

(b) a request made pursuant to subclause (1)(b) of principle 6 to be given access to personal information:

(c) a request made pursuant to subclause (1) of principle 7 for correction of personal information.

34 Individuals may make information privacy requests

An information privacy request may be made only by an individual.

Section 34: replaced, on 8 September 2010, by section 5 of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

35 Charges

(1) Subject to section 36, a public sector agency shall not require the payment, by or on behalf of any individual who wishes to make an information privacy request, of any charge in respect of—

(a) the provision of assistance in accordance with section 38; or

(b) the making of the request to that agency; or

(c) the transfer of the request to any other agency; or

(d) the processing of the request, including deciding whether or not the request is to be granted and, if so, in what manner; or

(e) the making available of information in compliance, in whole or in part, with the request; or

(f) in the case of a request made pursuant to subclause (1) of principle 7,—

(i) the correction of any information in compliance, in whole or in part, with the request; or

(ii) the attaching, to any information, of a statement of any correction sought but not made.

(2) Subject to subsection (4), an agency that is not a public sector agency shall not require the payment, by or on behalf of any individual who wishes to make an information privacy request, of any charge in respect of—

(a) the provision of assistance in accordance with section 38; or

(b) the making of the request to that agency; or

(c) the transfer of the request to any other agency; or

(d) the processing of the request, including deciding whether or not the request is to be granted and, if so, in what manner.

(3) An agency that is not a public sector agency may require the payment, by or on behalf of any individual who wishes to make a request pursuant to subclause (1)(a) or subclause (1)(b) of principle 6 or pursuant to principle 7, of a charge in respect of—

(a) the making available of information in compliance, in whole or in part, with the request; or

(b) in the case of a request made pursuant to subclause (1) of principle 7,—

(i) the correction of any information in compliance, in whole or in part, with the request; or

(ii) the attaching, to any information, of a statement of any correction sought but not made.

(4) Where an agency that is not a public sector agency makes information available in compliance, in whole or in part, with an information privacy request, the agency may require the payment of a charge in respect of the provision of assistance, by that agency, in accordance with section 38, in respect of that request.

(5) Any charge fixed by an agency pursuant to subsection (3) or subsection (4) or pursuant to an authority granted pursuant to section 36 in respect of an information privacy request shall be reasonable, and (in the case of a charge fixed in respect of the making available of information) regard may be had to the cost of the labour and materials involved in making information available in accordance with the request and to any costs incurred pursuant to a request of the applicant for the request to be treated as urgent.

(6) The provisions of subsections (3) to (5), in so far as they relate to the fixing, by any agency that is not a public sector agency, of any charge in respect of any information privacy request, shall apply subject to any provisions to the con-

trary in any code of practice issued under section 46 and for the time being in force.

Compare: 1982 No 156 ss 15(1A), (2), 24(1); 1989 No 122 s 2

36 Commissioner may authorise public sector agency to charge

(1) Where a public sector agency satisfies the Commissioner that the agency is commercially disadvantaged, in comparison with any competitor in the private sector, by reason that the agency is prevented, by subsection (1) of section 35, from imposing a charge in respect of any of the matters referred to in paragraph (e) or paragraph (f) of that subsection, the Commissioner may authorise that agency to impose a charge in respect of either or both of those matters.

(1A) The Commissioner may authorise a public sector agency to impose a charge in respect of the matter referred to in section 35(1)(e) if the information privacy request is received from, or on behalf of, an individual who—

(a) is residing outside New Zealand; and

(b) is not a New Zealand citizen or a permanent resident of New Zealand.

(2) The Commissioner may impose in respect of any authority granted pursuant to subsection (1) or (1A) such conditions as the Commissioner thinks fit.

(3) The Commissioner may, at any time, revoke any authority granted to an agency pursuant to subsection (1) or (1A), but shall not revoke any such authority without giving the agency an opportunity to be heard.

Section 36(1A): inserted, on 8 September 2010, by section 6(1) of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

Section 36(2): amended, on 8 September 2010, by section 6(2) of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

Section 36(3): amended, on 8 September 2010, by section 6(3) of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

37 Urgency

If an individual making an information privacy request asks that his or her request be treated as urgent, that individual shall give his or her reasons why the request should be treated as urgent.

Compare: 1982 No 156 s 12(3); 1987 No 174 s 10(3)

38 Assistance

It is the duty of every agency to give reasonable assistance to an individual, who—

(a) wishes to make an information privacy request; or

(b) in making such a request, has not made the request in accordance with the requirements of this Act; or

(c) has not made his or her request to the appropriate agency,—

to make a request in a manner that is in accordance with the requirements of this Act or to direct his or her request to the appropriate agency.

Compare: 1982 No 156 s 13; 1987 No 174 s 11

39 Transfer of requests

Where—

(a) an information privacy request is made to an agency or is transferred to an agency in accordance with this section; and

(b) the information to which the request relates—

(i) is not held by the agency but is believed by the person dealing with the request to be held by another agency; or

(ii) is believed by the person dealing with the request to be more closely connected with the functions or activities of another agency,—

the agency to which the request is made shall promptly, and in any case not later than 10 working days after the day on which the request is received, transfer the request to the other agency and inform the individual making the request accordingly.

Compare: 1982 No 156 s 14; 1987 No 174 ss 12, 57(1)

40 Decisions on requests

(1) Subject to this Act, the agency to which an information privacy request is made or transferred in accordance with this Act shall, as soon as reasonably practicable, and in any case not later than 20 working days after the day on which the request is received by that agency,—

(a) decide whether the request is to be granted and, if it is to be granted, in what manner and, subject to sections 35 and 36, for what charge (if any); and

(b) give or post to the individual who made the request notice of the decision on the request.

(2) Where any charge is imposed, the agency may require the whole or part of the charge to be paid in advance.

(3) Where an information privacy request is made or transferred to a department, the decision on that request shall be made by the chief executive of that department or an officer or employee of that department authorised by that chief executive, unless that request is transferred in accordance with section 39 to another agency.

(4) Nothing in subsection (3) prevents the chief executive of a department or any officer or employee of a department from consulting a Minister or any other person in relation to the decision that the chief executive or officer or employee

proposes to make on any information privacy request made or transferred to the department in accordance with this Act.

Compare: 1982 No 156 s 15; 1987 No 8 s 8(1); 1987 No 174 ss 13, 57(1)

41 Extension of time limits

(1) Where an information privacy request is made or transferred to an agency, the agency may extend the time limit set out in section 39 or section 40(1) in respect of the request if—

(a) the request is for a large quantity of information or necessitates a search through a large quantity of information, and meeting the original time limit would unreasonably interfere with the operations of the agency; or

(b) consultations necessary to make a decision on the request are such that a proper response to the request cannot reasonably be made within the original time limit.

(2) Any extension under subsection (1) shall be for a reasonable period of time having regard to the circumstances.

(3) The extension shall be effected by giving or posting notice of the extension to the individual who made the request within 20 working days after the day on which the request is received.

(4) The notice effecting the extension shall—

(a) specify the period of the extension; and

(b) give the reasons for the extension; and

(c) state that the individual who made the request for the information has the right, under section 67, to make a complaint to the Commissioner about the extension; and

(d) contain such other information as is necessary.

Compare: 1982 No 156 s 15A; 1987 No 8 s 9(1); 1987 No 174 s 14

42 Documents

(1) Where the information in respect of which an information privacy request is made by any individual is comprised in a document, that information may be made available in 1 or more of the following ways:

(a) by giving the individual a reasonable opportunity to inspect the document; or

(b) by providing the individual with a copy of the document; or

(c) in the case of a document that is an article or thing from which sounds or visual images are capable of being reproduced, by making arrangements for the individual to hear or view those sounds or visual images; or

(d) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in codi-

fied form, by providing the individual with a written transcript of the words recorded or contained in the document; or

(e) by giving an excerpt or summary of the contents; or

(f) by furnishing oral information about its contents.

(2) Subject to section 43, the agency shall make the information available in the way preferred by the individual requesting it unless to do so would—

(a) impair efficient administration; or

(b) be contrary to any legal duty of the agency in respect of the document; or

(c) prejudice the interests protected by section 27 or section 28 or section 29 and (in the case of the interests protected by section 28) there is no countervailing public interest.

(3) Where the information is not provided in the way preferred by the individual requesting it, the agency shall, subject to section 32, give to that individual—

(a) the reason for not providing the information in that way; and

(b) if that individual so requests, the grounds in support of that reason, unless the giving of those grounds would itself prejudice the interests protected by section 27 or section 28 or section 29 and (in the case of the interests protected by section 28) there is no countervailing public interest.

Compare: 1982 No 156 s 16; 1987 No 8 s 4(2); 1987 No 174 s 15

43 Deletion of information from documents

(1) Where the information in respect of which an information privacy request is made is comprised in a document and there is good reason for withholding some of the information contained in that document, the other information in that document may be made available by making a copy of that document available with such deletions or alterations as are necessary.

(2) Where a copy of a document is made available under subsection (1), the agency shall, subject to section 32, give to the individual—

(a) the reason for withholding the information; and

(b) if the individual so requests, the grounds in support of that reason, unless the giving of those grounds would itself prejudice the interests protected by section 27 or section 28 or section 29 and (in the case of the interests protected by section 28) there is no countervailing public interest.

Compare: 1982 No 156 s 17; 1987 No 8 s 4(2); 1987 No 174 s 16

44 Reason for refusal to be given

Where an information privacy request made by an individual is refused, the agency shall,—

(a) subject to section 32, give to the individual—

(i) the reason for its refusal; and

(ii) if the individual so requests, the grounds in support of that reason, unless the giving of those grounds would itself prejudice the interests protected by section 27 or section 28 or section 29 and (in the case of the interests protected by section 28) there is no countervailing public interest; and

(b) give to the individual information concerning the individual's right, by way of complaint under section 67 to the Commissioner, to seek an investigation and review of the refusal.

Compare: 1982 No 156 s 19; 1987 No 8 s 4(2); 1987 No 174 s 18

45 Precautions

Where an information privacy request is made pursuant to subclause (1)(b) of principle 6, the agency—

(a) shall not give access to that information unless it is satisfied concerning the identity of the individual making the request; and

(b) shall ensure, by the adoption of appropriate procedures, that any information intended for an individual is received—

(i) only by that individual; or

(ii) where the request is made by an agent of the individual, only by that individual or his or her agent; and

(c) shall ensure that, where the request is made by an agent of the individual, the agent has the written authority of that individual to obtain the information or is otherwise properly authorised by that individual to obtain the information.

Compare: 1982 No 156 s 25; 1987 No 174 s 24

Part 6
Codes of practice and exemptions from information privacy principles

Codes of practice

46 Codes of practice

(1) The Commissioner may from time to time issue a code of practice.

(2) A code of practice may—

(a) modify the application of any 1 or more of the information privacy principles by—

(i) prescribing standards that are more stringent or less stringent than the standards that are prescribed by any such principle:

(ii) exempting any action from any such principle, either unconditionally or subject to such conditions as are prescribed in the code:

(aa) apply any 1 or more of the information privacy principles (but not all of those principles) without modification:

(b) prescribe how any 1 or more of the information privacy principles are to be applied, or are to be complied with.

(3) A code of practice may apply in relation to any 1 or more of the following:

(a) any specified information or class or classes of information:

(b) any specified agency or class or classes of agencies:

(c) any specified activity or class or classes of activities:

(d) any specified industry, profession, or calling or class or classes of industries, professions, or callings.

(4) A code of practice may also—

(a) impose, in relation to any agency that is not a public sector agency, controls in relation to the comparison (whether manually or by means of any electronic or other device) of personal information with other personal information for the purpose of producing or verifying information about an identifiable individual:

(b) in relation to charging under section 35,—

(i) set guidelines to be followed by agencies in determining charges:

(ii) prescribe circumstances in which no charge may be imposed:

(c) prescribe procedures for dealing with complaints alleging a breach of the code, but no such provisions may limit or restrict any provision of Part 8 or Part 9:

(d) provide for the review of the code by the Commissioner:

(e) provide for the expiry of the code.

(5) A code of practice may not limit or restrict the circumstances in which an individual is entitled,—

(a) under subclause (1)(a) of principle 6, to obtain confirmation of whether or not a public sector agency holds personal information; or

(b) under subclause (1)(b) of principle 6, to have access to personal information held by a public sector agency; or

(c) under principle 7,—

(i) to request the correction of personal information held by a public sector agency; or

(ii) to request that there be attached to any such information a statement of any correction sought but not made.

(6) Notwithstanding the definition of the term individual in section 2(1),—

(a) for the purposes of the issuing under this section of any code of practice relating to health information (whether or not any such code also relates to any other information), principle 11 shall be read as if it applies in respect of health information about any individual, whether living or deceased; and

(b) any code of practice so issued shall have effect under section 53 as if principle 11 so applied, and the provisions of this Act shall apply accordingly.

(7) For the purposes of subsection (6), the term **health information** has the same meaning as it has in section 22B of the Health Act 1956.

Section 46(2)(aa): inserted, on 1 July 1994, by section 2 of the Privacy Amendment Act 1994 (1994 No 70).

47 Proposal for issuing of code of practice

(1) Subject to section 48, the Commissioner may issue a code of practice under section 46 on the Commissioner's own initiative or on the application of any person.

(2) Without limiting subsection (1), but subject to subsection (3), any person may apply to the Commissioner for the issue of a code of practice in the form submitted by the applicant.

(3) An application may be made pursuant to subsection (2) only—

(a) by a body the purpose of which, or one of the purposes of which, is to represent the interests of any class or classes of agency, or of any industry, profession, or calling; and

(b) where the code of practice sought by the applicant is intended to apply in respect of the class or classes of agency, or the industry, profession, or calling, that the applicant represents, or any activity of any such class or classes of agency or of any such industry, profession, or calling.

(4) Where an application is made to the Commissioner pursuant to subsection (2), the Commissioner shall give public notice that the application has been received by the Commissioner, which notice shall contain a statement that—

(a) the details of the code of practice sought by the applicant, including a draft of the proposed code, may be obtained from the Commissioner; and

(b) submissions on the proposed code may be made in writing to the Commissioner within such period as is specified in the notice.

(5) For the purposes of section 48, the publication of a notice under subsection (4) in relation to any proposed code of practice shall be sufficient compliance with the requirements of subsection (1)(a) of that section in relation to the issuing of that code.

48 Notification of intention to issue code

(1) Subject to section 52, the Commissioner shall not issue a code of practice under section 46 unless—

(a) the Commissioner has given public notice of the Commissioner's intention to issue the code, which notice shall contain a statement that—

(i) the details of the proposed code, including a draft of the proposed code, may be obtained from the Commissioner; and

(ii) submissions on the proposed code may be made in writing to the Commissioner within such period as is specified in the notice; and

(b) the Commissioner has done everything reasonably possible on his or her part to advise all persons who will be affected by the proposed code, or representatives of those persons, of the proposed terms of the code, and of the reasons for it, has given such persons or their representatives a reasonable opportunity to consider the proposed code and to make submissions on it to the Commissioner, and has considered any such submissions.

(2) The fact that the Commissioner has published in the *Gazette* a notice under section 49(1) shall be conclusive proof that the requirements of this section have been complied with in respect of the code of practice to which the notice relates.

(3) Nothing in subsection (1) prevents the Commissioner from adopting any additional means of publicising the proposal to issue a code or of consulting with interested parties in relation to such a proposal.

49 Notification, availability, and commencement of code

(1) Where a code of practice is issued under section 46,—

(a) the Commissioner shall ensure that there is published in the *Gazette*, as soon as practicable after the code is issued, a notice—

(i) indicating that the code has been issued; and

(ii) showing a place at which copies of the code are available for inspection free of charge and for purchase; and

(b) the Commissioner shall ensure that so long as the code remains in force, copies of the code are available—

(i) for inspection by members of the public free of charge; and

(ii) for purchase by members of the public at a reasonable price.

(2) Every code of practice issued under section 46 shall come into force on the 28th day after the date of its notification in the *Gazette* or on such later day as may be specified in the code.

50 Application of Legislation Act 2012 to codes

All codes of practice issued under section 46 are disallowable instruments, but not legislative instruments, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 50: replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

51 Amendment and revocation of codes

(1) The Commissioner may from time to time issue an amendment or revocation of a code of practice issued under section 46.

(2) The provisions of sections 47 to 50 shall apply in respect of any amendment or revocation of a code of practice.

52 Urgent issue of code

(1) If the Commissioner considers that it is necessary to issue a code of practice under section 46, or to amend or revoke any such code of practice, and that following the procedure set out in section 48 would be impracticable because it is necessary to issue the code or, as the case may be, the amendment or revocation urgently, the Commissioner may issue the code of practice or, as the case may be, the amendment or revocation without complying with those procedures.

(2) Every code of practice, and every amendment or revocation of a code of practice, issued in accordance with this section shall be identified as a temporary code or amendment or revocation, and shall remain in force for such period (not exceeding 1 year after the date of its issue) as is specified for that purpose in the code or, as the case may be, the amendment or the revocation.

(3) Nothing in section 49(2) shall apply in respect of a code of practice, or any amendment or revocation of a code of practice, issued in accordance with this section.

53 Effect of code

Where a code of practice issued under section 46 is in force,—

(a) the doing of any action that would otherwise be a breach of an information privacy principle shall, for the purposes of Part 8, be deemed not to be a breach of that principle if the action is done in compliance with the code:

(b) failure to comply with the code, even though that failure is not otherwise a breach of any information privacy principle, shall, for the purposes of Part 8, be deemed to be a breach of an information privacy principle.

Specific exemptions

54 Commissioner may authorise collection, use, or disclosure of personal information

(1) The Commissioner may authorise an agency to collect, use, or disclose personal information, even though that collection, use, or disclosure would otherwise be in breach of principle 2 or principle 10 or principle 11, if the Commissioner is satisfied that, in the special circumstances of the case,—

(a) the public interest in that collection or, as the case requires, that use or that disclosure outweighs, to a substantial degree, any interference with the privacy of the individual that could result from that collection or, as the case requires, that use or that disclosure; or

(b) that collection or, as the case requires, that use or that disclosure involves a clear benefit to the individual concerned that outweighs any interference with the privacy of the individual that could result from that collection or, as the case requires, that use or that disclosure.

(2) The Commissioner may impose in respect of any authority granted under subsection (1) such conditions as the Commissioner thinks fit.

(3) The Commissioner shall not grant an authority under subsection (1) in respect of the collection, use, or disclosure of any personal information for any purpose if the individual concerned has refused to authorise the collection or, as the case requires, the use or disclosure of the information for that purpose.

55 Certain personal information excluded

Nothing in principle 6 or principle 7 applies in respect of—

(a) personal information in the course of transmission by post, telegram, cable, telex, facsimile transmission, electronic mail, or other similar means of communication; or

(b) evidence given or submissions made to—

(i) a Royal Commission; or

(ii) a commission of inquiry appointed by Order in Council under the Commissions of Inquiry Act 1908; or

(iii) an inquiry to which section 6 of the Inquiries Act 2013 applies,—

at any time before the report of the Royal Commission, commission of inquiry, or inquiry, as the case may be, has been published or, in the case of evidence given or submissions made in the course of a public hearing, at any time before the report has been presented to the Governor-General or appointing Minister, as the case may be; or

(c) evidence given or submissions made to a commission of inquiry or board of inquiry or court of inquiry or committee of inquiry appointed,

pursuant to, and not by, any provision of an Act, to inquire into a specified matter; or

(d) information contained in any correspondence or communication that has taken place between the office of the Ombudsmen and any agency and that relates to any investigation conducted by an Ombudsman under the Ombudsmen Act 1975 or the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987, other than information that came into existence before the commencement of that investigation; or

(e) information contained in any correspondence or communication that has taken place between the office of the Commissioner and any agency and that relates to any investigation conducted by the Commissioner under this Act, other than information that came into existence before the commencement of that investigation.

Section 55(b): replaced, on 27 August 2013, by section 39 of the Inquiries Act 2013 (2013 No 60).

56 Personal information relating to domestic affairs

(1) Nothing in the information privacy principles applies in respect of—

(a) the collection of personal information by an agency that is an individual; or

(b) personal information that is held by an agency that is an individual,—

where that personal information is collected or held by that individual solely or principally for the purposes of, or in connection with, that individual's personal, family, or household affairs.

(2) The exemption in subsection (1) ceases to apply once the personal information concerned is collected, disclosed, or used, if that collection, disclosure, or use would be highly offensive to an ordinary reasonable person.

Compare: Data Protection Act 1984 s 33(1) (UK)

Section 56(2): inserted, on 3 July 2015, by section 41 of the Harmful Digital Communications Act 2015 (2015 No 63).

57 Exemption for intelligence and security agencies

Information privacy principles 2, 3, and 4(b) do not apply to information collected by an intelligence and security agency.

Section 57: replaced, on 28 September 2017, by section 315 of the Intelligence and Security Act 2017 (2017 No 10).

Part 7
Public register personal information

58 Interpretation

In this Part, unless the context otherwise requires,—

public register means—

(a) any register, roll, list, or other document maintained pursuant to a public register provision:

(b) a document specified in Part 2 of Schedule 2

public register privacy principle means any of the principles set out in section 59

public register provision means a provision specified in the second column of Part 1 of Schedule 2 as a public register provision of an enactment specified in the first column of that Part.

59 Public register privacy principles

The public register privacy principles are as follows:

Public register privacy principles

Principle 1

Search references

Personal information shall be made available from a public register only by search references that are consistent with the manner in which the register is indexed or organised.

Principle 2

Use of information from public registers

Personal information obtained from a public register shall not be re-sorted, or combined with personal information obtained from any other public register, for the purpose of making available for valuable consideration personal information assembled in a form in which that personal information could not be obtained directly from the register.

Principle 3

Electronic transmission of personal information from register

Personal information in a public register shall not be made available by means of electronic transmission, unless the purpose of the transmission is to make the information available to a member of the public who wishes to search the register.

Principle 4

Charging for access to public register

Personal information shall be made available from a public register for no charge or for no more than a reasonable charge.

60 Application of information privacy principles and public register privacy principles to public registers

(1) Subject to subsection (3), the agency responsible for administering any public register shall, in administering that register, comply, so far as is reasonably practicable, with the information privacy principles and the public register privacy principles.

(2) Every person shall, so far as is reasonably practicable, comply with principle 2 of the public register privacy principles.

(3) Where any information privacy principle or any public register privacy principle is inconsistent with any provision of any enactment, then, for the purposes of this Part, that enactment shall, to the extent of the inconsistency, prevail.

61 Complaints relating to compliance with principles

(1) The Commissioner may, on complaint made to the Commissioner by any person or on the Commissioner's own initiative, inquire into any public register provision if it appears to the Commissioner that the provision is inconsistent with any of the information privacy principles or any of the public register privacy principles.

(2) On completing any inquiry conducted pursuant to subsection (1), the Commissioner shall report the Commissioner's findings to the Minister responsible for the administration of the enactment that was the subject of the inquiry, and any such report may include recommendations on the need for, or desirability of, taking any legislative, administrative, or other action to ensure adherence or greater adherence to the information privacy principles or the public register privacy principles, or both.

(3) The Commissioner may, on complaint made to the Commissioner by any person or on the Commissioner's own initiative, investigate—

(a) the actions of any agency that is responsible for administering any public register if it appears that the agency is not, in the administration of that register, complying with the information privacy principles, or the public register privacy principles, or both:

(b) the actions of any person if it appears that the person is not complying with principle 2 of the public register privacy principles.

(4) On completing any inquiry conducted pursuant to subsection (3), the Commissioner shall report the Commissioner's findings to the chief administrative officer of the agency whose actions were the subject of the inquiry (or the person whose actions were the subject of the inquiry, in the case of an inquiry to which paragraph (b) of that subsection applies), and any such report may include recommendations on the need for, or desirability of, taking any administrative or other action to ensure adherence or greater adherence to the information privacy principles or the public register privacy principles, or both.

(5) Sections 68, 70, 71, 73, 75, 80, and Part 9 shall apply, so far as applicable and with all necessary modifications, in relation to the making of a complaint pursuant to this section and to any inquiry conducted by the Commissioner pursuant to this section.

62 Enforceability of principles

The public register privacy principles do not confer on any person any legal right that is enforceable in a court of law.

63 Codes of practice in relation to public registers

(1) The Commissioner may from time to time issue, in relation to any public register, a code of practice.

(2) A code of practice issued under this section may—

(a) modify the application, in relation to a public register, of any 1 or more of the public register privacy principles, or any 1 or more of the information privacy principles, or both, by—

(i) prescribing standards that are more stringent or less stringent than the standards that are prescribed by any such principle:

(ii) exempting any action from any such principle, either unconditionally or subject to such conditions as are prescribed in the code:

(b) prescribe how any 1 or more of the public register privacy principles, or any 1 or more of the information privacy principles, or both, are to be applied, or are to be complied with:

(c) impose requirements that are not prescribed by any public register privacy principle.

(3) A code of practice issued under this section may also contain provisions—

(a) providing for the review of the code by the Commissioner:

(b) providing for the expiry of the code.

(4) To the extent that any code of practice issued under this section is inconsistent with any provision of any enactment, the code shall, to the extent of the inconsistency, be of no effect.

(5) Sections 47 to 52, so far as they are applicable and with all necessary modifications, shall apply with respect to the issue of any code of practice under this section and with respect to any code so issued.

64 Effect of code

Where a code of practice issued under section 63 is in force,—

(a) the doing of any action that would otherwise be a breach of a public register privacy principle or an information privacy principle shall, for the purposes of this Part, be deemed not to be a breach of that principle if the action is done in compliance with the code:

(b) failure to comply with the code, even though that failure is not otherwise a breach of any public register privacy principle, shall, for the purposes of this Part, be deemed to be a breach of a public register privacy principle.

65 Power to amend Schedule 2 by Order in Council

(1) The Governor-General may from time to time, by Order in Council made on the advice of the responsible Minister given after consultation with the Commissioner, amend Schedule 2 by adding any item.

(2) An Order in Council made under this section may add an item to Part 2 of Schedule 2 only if the item relates to a document that contains personal information and that is held by a public sector agency.

Part 8
Complaints

Interpretation

66 Interference with privacy

(1) For the purposes of this Part, an action is an interference with the privacy of an individual if, and only if,—

(a) in relation to that individual,—

(i) the action breaches an information privacy principle; or

(ii) the action breaches a code of practice issued under section 63 (which relates to public registers); or

(iia) the action breaches an information privacy principle or a code of practice as modified by an Order in Council made under section 96J; or

(iib) the provisions of an information sharing agreement approved by an Order in Council made under section 96J have not been complied with; or

(iii) the provisions of Part 10 (which relates to information matching) have not been complied with; and

(b) in the opinion of the Commissioner or, as the case may be, the Tribunal, the action—

(i) has caused, or may cause, loss, detriment, damage, or injury to that individual; or

(ii) has adversely affected, or may adversely affect, the rights, benefits, privileges, obligations, or interests of that individual; or

(iii) has resulted in, or may result in, significant humiliation, significant loss of dignity, or significant injury to the feelings of that individual.

(2) Without limiting subsection (1), an action is an interference with the privacy of an individual if, in relation to an information privacy request made by the individual,—

(a) the action consists of a decision made under Part 4 or Part 5 in relation to the request, including—

(i) a refusal to make information available in response to the request; or

(ii) a decision by which an agency decides, in accordance with section 42 or section 43, in what manner or, in accordance with section 40, for what charge the request is to be granted; or

(iii) a decision by which an agency imposes conditions on the use, communication, or publication of information made available pursuant to the request; or

(iv) a decision by which an agency gives a notice under section 32; or

(v) a decision by which an agency extends any time limit under section 41; or

(vi) a refusal to correct personal information; and

(b) the Commissioner or, as the case may be, the Tribunal is of the opinion that there is no proper basis for that decision.

(3) If, in relation to any information privacy request, any agency fails within the time limit fixed by section 40(1) (or, where that time limit has been extended under this Act, within that time limit as so extended) to comply with paragraph (a) or paragraph (b) of section 40(1), that failure shall be deemed, for the purposes of subsection (2)(a)(i) of this section, to be a refusal to make available the information to which the request relates.

(4) Undue delay in making information available in response to an information privacy request for that information shall be deemed, for the purposes of subsection (2)(a)(i), to be a refusal to make that information available.

Compare: 1982 No 156 s 28(1), (2), (4), (5); 1987 No 8 s 16(1); 1987 No 174 s 27(1), (2), (4), (5)

Section 66(1)(a)(iia): inserted, on 27 February 2013, by section 7 of the Privacy Amendment Act 2013 (2013 No 1).

Section 66(1)(a)(iib): inserted, on 27 February 2013, by section 7 of the Privacy Amendment Act 2013 (2013 No 1).

Complaints

67 Complaints

(1) Any person may make a complaint to the Commissioner alleging that any action is or appears to be an interference with the privacy of an individual.

(2) A complaint under this Part may be lodged with the Commissioner or an Ombudsman.

(3) On receiving a complaint under this Part, an Ombudsman shall forward the complaint to the Commissioner as soon as practicable.

68 Mode of complaint

(1) A complaint to the Commissioner may be made either orally or in writing.

(2) A complaint made orally shall be put in writing as soon as practicable.

(3) The Commissioner shall give such reasonable assistance as is necessary in the circumstances to enable an individual, who wishes to make a complaint to the Commissioner, to put the complaint in writing.

Investigations by Commissioner

69 Investigation of interference with privacy of individual

(1) The functions of the Commissioner under this Part shall be—

(a) to investigate any action that is or appears to be an interference with the privacy of an individual:

(b) to act as conciliator in relation to any such action:

(c) to take such further action as is contemplated by this Part.

(2) The Commissioner may commence an investigation under subsection (1)(a) either on complaint made to the Commissioner or on the Commissioner's own initiative.

Compare: 1977 No 49 s 34

70 Action on receipt of complaint

(1) On receiving a complaint under this Part, the Commissioner may—

(a) investigate the complaint; or

(b) decide, in accordance with section 71, to take no action on the complaint.

(2) The Commissioner shall, as soon as practicable, advise the complainant and the person to whom the complaint relates of the procedure that the Commissioner proposes to adopt under subsection (1).

71 Commissioner may decide to take no action on complaint

(1) The Commissioner may in his or her discretion decide to take no action or, as the case may require, no further action, on any complaint if, in the Commissioner's opinion,—

(a) the length of time that has elapsed between the date when the subject matter of the complaint arose and the date when the complaint was made

is such that an investigation of the complaint is no longer practicable or desirable; or

(b) the subject matter of the complaint is trivial; or

(c) the complaint is frivolous or vexatious or is not made in good faith; or

(d) the individual alleged to be aggrieved does not desire that action be taken or, as the case may be, continued; or

(e) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or

(f) where—

(i) the complaint relates to a matter in respect of which a code of practice issued under section 46 is in force; and

(ii) the code of practice makes provision for a complaints procedure,—

the complainant has failed to pursue, or to pursue fully, an avenue of redress available under that complaints procedure that it would be reasonable for the complainant to pursue; or

(g) there is in all the circumstances an adequate remedy or right of appeal, other than the right to petition the House of Representatives or to make a complaint to an Ombudsman, that it would be reasonable for the individual alleged to be aggrieved to exercise.

(2) Notwithstanding anything in subsection (1), the Commissioner may in his or her discretion decide not to take any further action on a complaint if, in the course of the investigation of the complaint, it appears to the Commissioner that, having regard to all the circumstances of the case, any further action is unnecessary or inappropriate.

(3) In any case where the Commissioner decides to take no action, or no further action, on a complaint, the Commissioner shall inform the complainant of that decision and the reasons for it.

Compare: 1975 No 9 s 17; 1977 No 49 s 35; 1981 No 127 s 3

72 Referral of complaint to Ombudsman

(1) Where, on receiving a complaint under this Part, the Commissioner considers that the complaint relates, in whole or in part, to a matter that is more properly within the jurisdiction of an Ombudsman under the Ombudsmen Act 1975 or the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987, the Commissioner shall forthwith consult with the Chief Ombudsman in order to determine the appropriate means of dealing with the complaint.

(2) As soon as practicable after consulting with the Chief Ombudsman under subsection (1), the Commissioner shall determine whether the complaint should be dealt with, in whole or in part, under this Act.

(3) If the Commissioner determines that the complaint should be dealt with, in whole or in part, under the Ombudsmen Act 1975 or the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987, the Commissioner shall forthwith refer the complaint or, as the case requires, the appropriate part of the complaint to the Chief Ombudsman to be dealt with accordingly, and shall notify the complainant of the action that has been taken.

72A Referral of complaint to Health and Disability Commissioner

(1) Where, on receiving a complaint under this Part, the Commissioner considers that the complaint relates, in whole or in part, to a matter that is more properly within the jurisdiction of the Health and Disability Commissioner under the Health and Disability Commissioner Act 1994, the Commissioner shall forthwith consult with the Health and Disability Commissioner in order to determine the appropriate means of dealing with the complaint.

(2) As soon as practicable after consulting with the Health and Disability Commissioner under subsection (1), the Commissioner shall determine whether or not the complaint should be dealt with, in whole or in part, under this Act.

(3) If the Commissioner determines that the complaint should be dealt with, in whole or in part, under the Health and Disability Commissioner Act 1994, the Commissioner shall forthwith refer the complaint or, as the case requires, the appropriate part of the complaint to the Health and Disability Commissioner to be dealt with accordingly, and shall notify the complainant of the action that has been taken.

Section 72A: inserted, on 1 July 1996, by section 81(1) of the Health and Disability Commissioner Act 1994 (1994 No 88).

72B Referral of complaint to Inspector-General of Intelligence and Security

(1) Where, on receiving a complaint under this Part, the Commissioner considers that the complaint relates, in whole or in part, to a matter that is more properly within the jurisdiction of the Inspector-General of Intelligence and Security under subpart 1 of Part 6 of the Intelligence and Security Act 2017, the Commissioner shall forthwith consult with the Inspector-General of Intelligence and Security in order to determine the appropriate means of dealing with the complaint.

(2) As soon as practicable after consulting with the Inspector-General of Intelligence and Security under subsection (1), the Commissioner shall determine whether or not the complaint should be dealt with, in whole or in part, under this Act.

(3) If the Commissioner determines that the complaint should be dealt with, in whole or in part, under subpart 1 of Part 6 of the Intelligence and Security Act 2017, the Commissioner shall forthwith refer the complaint or, as the case requires, the appropriate part of the complaint to the Inspector-General of Intel-

ligence and Security to be dealt with accordingly, and shall notify the complainant of the action that has been taken.

Section 72B: inserted, on 2 July 1996, by section 32 of the Inspector-General of Intelligence and Security Act 1996 (1996 No 47).

Section 72B(1): amended, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

Section 72B(3): amended, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

72C Referral of complaint to overseas privacy enforcement authority

(1) Where, on receiving a complaint under this Part, the Commissioner considers that the complaint relates, in whole or in part, to a matter that is more properly within the jurisdiction of an overseas privacy enforcement authority, the Commissioner may consult with that authority in order to determine the appropriate means of dealing with the complaint.

(2) As soon as practicable after consulting with the overseas privacy enforcement authority under subsection (1), the Commissioner must determine whether the complaint should be dealt with, in whole or in part, under this Act.

(3) If the Commissioner determines that the complaint should be dealt with, in whole or in part, by the overseas privacy enforcement authority, and both the authority and the complainant agree, the Commissioner may refer the complaint or, as the case requires, the appropriate part of the complaint, to the authority to be dealt with.

(4) In this section, **overseas privacy enforcement authority** or **authority** means any overseas public body that is responsible for enforcing legislation that protects personal information, and that has the power to conduct investigations and pursue enforcement proceedings.

Section 72C: inserted, on 8 September 2010, by section 7 of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

Proceedings of Commissioner

73 Proceedings of Commissioner

Before proceeding to investigate any matter under this Part, the Commissioner—

(a) shall inform the complainant (if any), the person to whom the investigation relates, and any individual alleged to be aggrieved (if not the complainant), of the Commissioner's intention to make the investigation; and

(b) shall inform the person to whom the investigation relates of—

(i) the details of the complaint (if any) or, as the case may be, the subject matter of the investigation; and

(ii) the right of that person to submit to the Commissioner, within a reasonable time, a written response in relation to the complaint or, as the case may be, the subject matter of the investigation.

Compare: 1975 No 9 s 18(1); 1977 No 49 s 72(1)

74 Settlement of complaints

Where it appears from a complaint, or any written response made in relation to a complaint under section 73(b)(ii), that it may be possible to secure a settlement between any of the parties concerned and, if appropriate, a satisfactory assurance against the repetition of any action that is the subject matter of the complaint or the doing of further actions of a similar kind by the person concerned, the Commissioner may, without investigating the complaint or, as the case may be, investigating the complaint further, use his or her best endeavours to secure such a settlement and assurance.

75 Parties to be informed of result of investigation

Where any investigation is made following a complaint, the Commissioner shall conduct the investigation with due expedition and shall inform the parties concerned, as soon as reasonably practicable after the conclusion of the investigation and in such manner as the Commissioner thinks proper, of the result of the investigation and of what further action (if any) the Commissioner proposes to take in respect of that complaint.

Compare: 1977 No 49 s 36

76 Compulsory conferences

(1) The Commissioner may call a conference of the parties to a complaint by—

(a) posting to each of them a notice requesting their attendance at a time and place specified; or

(b) such other means as is agreed to by the parties concerned.

(2) The objectives of the conference shall be—

(a) to identify the matters in issue between the parties; and

(b) to try to obtain agreement between the parties on the resolution of those matters.

(3) Where a person fails to comply with a request under subsection (1) to attend a conference, the Commissioner may issue a summons requiring the person to attend a conference at a time and place to be specified in the summons.

(4) Section 159 of the Criminal Procedure Act 2011 applies to a summons under this section as if it were a witness summons issued under that section.

Compare: 1988 No 4 ss 67, 71

Section 76(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

77 Procedure after investigation

(1) Where the Commissioner, after making any investigation under this Part, is of the opinion,—

(a) in the case of a complaint, that the complaint has substance, the Commissioner shall use his or her best endeavours to secure a settlement between any parties concerned and, if the Commissioner considers it appropriate, a satisfactory assurance against the repetition of any action that was the subject matter of the investigation or the doing of further actions of a similar kind by the person concerned; or

(b) in any other case, that the matter ought to be proceeded with, the Commissioner shall use his or her best endeavours to secure such an assurance as is referred to in paragraph (a).

(2) If,—

(a) in the circumstances referred to in section 74, the Commissioner is unable to secure such a settlement and assurance as is referred to in that section; or

(b) in the circumstances referred to in paragraph (a) or paragraph (b) of subsection (1), the Commissioner is unable to secure such a settlement and assurance or, as the case may be, such an assurance as is referred to in either of those paragraphs; or

(c) in any case to which section 74 or subsection (1) applies, it appears that the action that was the subject matter of the complaint or, as the case may be, the investigation was done in contravention of such an assurance as is referred to in that section or that subsection, given on a previous occasion, or that any term of such a settlement as is referred to in that section or that subsection, reached on a previous occasion, has not been complied with,—

the Commissioner may refer the matter to the Director of Human Rights Proceedings for the purpose of deciding whether proceedings under section 82 should be instituted against the person against whom the complaint was made or in respect of whom the investigation was conducted.

(3) Where a matter is referred to the Director of Human Rights Proceedings under subsection (2), it shall, subject to section 82(3), be for the Director of Human Rights Proceedings to determine, in his or her discretion, both whether a matter justifies the institution of proceedings under section 82 and whether proceedings should be instituted under section 82 in respect of that matter.

Compare: 1977 No 49 s 37; 1983 No 56 s 11

Section 77(2): amended, on 22 October 2003, by section 3 of the Privacy Amendment Act 2003 (2003 No 94).

Section 77(3): amended, on 22 October 2003, by section 3 of the Privacy Amendment Act 2003 (2003 No 94).

78 Procedure in relation to charging

(1) Notwithstanding anything in section 77, where the Commissioner, after making any investigation under this Part, is of the opinion that a charge fixed in respect of an information privacy request is unreasonable, the Commissioner shall determine the amount of the charge (if any) that may reasonably be imposed in respect of that request.

(2) A determination of the Commissioner under subsection (1) shall be final and binding on the person who made the request and on the agency concerned, and, notwithstanding anything in section 82 or section 83, no proceedings may be brought before the Tribunal under either of those sections in respect of any action of any agency in so far as that action is the subject of a determination made by the Commissioner under subsection (1).

79 Breaches of certain principles occurring before 1 July 1996

(1) This section applies to any interference with the privacy of an individual involving a breach of any of principles 1, 2, 3, 4, 8, 9, 10, and 11, in any case where the action that constitutes the breach occurs before 1 July 1996.

(2) Notwithstanding anything in this Part, but subject to subsection (3), where—

(a) any complaint is made under this Part; or

(b) any investigation is commenced under this Part,—

then, in so far as the complaint or investigation relates to an interference with the privacy of an individual (being an interference to which this section applies), the following provisions shall apply:

(c) nothing in section 77(2) or section 77(3) or sections 82 to 89 shall apply in relation to the complaint or the investigation:

(d) the Commissioner may make such recommendations as the Commissioner thinks fit to the agency against which the complaint was made or, as the case requires, in respect of which the investigation was conducted, including (without limitation) a recommendation that the agency develop a code of practice in relation to all or any of its activities:

(e) where the Commissioner makes a recommendation to an agency pursuant to paragraph (d), the Commissioner may request the agency to notify the Commissioner, within a specified time, of the steps (if any) that the agency proposes to take to give effect to the Commissioner's recommendation.

(3) Nothing in this section applies in relation to any interference with the privacy of an individual involving a breach of any information privacy principle, where the action that breaches the principle constitutes a failure to comply with a code of practice issued under section 46.

80 Commissioner to report breach of duty or misconduct

If, during or after any investigation, the Commissioner is of the opinion that there is evidence of any significant breach of duty or misconduct on the part of any agency or any officer or employee or member of an agency, the Commissioner shall refer the matter to the appropriate authority.

Compare: 1975 No 9 s 18(6); 1982 No 89 s 2

Special procedure relating to intelligence and security agencies

Heading: replaced (with effect on 1 July 1993), on 3 September 1996, by section 4 of the Privacy Amendment Act 1996 (1996 No 142).

Heading: amended, on 28 September 2017, by section 316 of the Intelligence and Security Act 2017 (2017 No 10).

81 Special procedure relating to intelligence and security agencies

(1) Nothing in sections 76, 77, and 82 to 89 applies to—

(a) any complaint made under this Part in relation to an action of an intelligence and security agency; or

(b) any investigation conducted under this Part in relation to an action of an intelligence and security agency.

(2) If, after completing an investigation, the Commissioner is of the opinion that an action of an intelligence and security agency is an interference with the privacy of an individual, the Commissioner must provide to the intelligence and security agency a report setting out—

(a) his or her opinion; and

(b) the reasons for that opinion.

(3) A report provided under subsection (2) may include any recommendations the Commissioner considers appropriate.

(4) When making a report under subsection (2), the Commissioner may request the intelligence and security agency to notify him or her within a specified time of any steps the agency proposes to take in response to the report and to any recommendations included in the report.

(5) If, within a reasonable time after any report is made, no steps are taken by the intelligence and security agency in response to the report that seem to be adequate and appropriate, the Commissioner may send a copy of the report to the Prime Minister.

(6) As soon as practicable after receiving a report under subsection (5), the Prime Minister may present the report, or any part of the report, to the House of Representatives.

Section 81: replaced, on 28 September 2017, by section 317 of the Intelligence and Security Act 2017 (2017 No 10).

Proceedings before Human Rights Review Tribunal

Heading: amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

82 Proceedings before Human Rights Review Tribunal

(1) This section applies to any person—

(a) in respect of whom an investigation has been conducted under this Part in relation to any action alleged to be an interference with the privacy of an individual; or

(b) in respect of whom a complaint has been made in relation to any such action, where conciliation under section 74 has not resulted in a settlement.

(2) Subject to subsection (3), civil proceedings before the Human Rights Review Tribunal shall lie at the suit of the Director of Human Rights Proceedings against any person to whom this section applies in respect of any action of that person that is an interference with the privacy of an individual.

(3) The Director of Human Rights Proceedings shall not take proceedings under subsection (2) against any person to whom this section applies unless the Director of Human Rights Proceedings has given that person an opportunity to be heard.

(4) The Director of Human Rights Proceedings may, under subsection (2), bring proceedings on behalf of a class of individuals, and may seek on behalf of individuals who belong to the class any of the remedies described in section 85, where the Director of Human Rights Proceedings considers that a person to whom this section applies is carrying on a practice which affects that class and which is an interference with the privacy of an individual.

(5) Where proceedings are commenced by the Director of Human Rights Proceedings under subsection (2), the aggrieved individual (if any) shall not be an original party to, or, unless the Tribunal otherwise orders, join or be joined in, any such proceedings.

Compare: 1977 No 49 s 38(1)–(3); 1983 No 56 s 12(1)

Section 82 heading: amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 82(2): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 82(3): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 82(4): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 82(5): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

83 Aggrieved individual may bring proceedings before Human Rights Review Tribunal

Notwithstanding section 82(2), the aggrieved individual (if any) may himself or herself bring proceedings before the Human Rights Review Tribunal against a person to whom section 82 applies if the aggrieved individual wishes to do so, and—

(a) the Commissioner or the Director of Human Rights Proceedings is of the opinion that the complaint does not have substance or that the matter ought not to be proceeded with; or

(b) in a case where the Director of Human Rights Proceedings would be entitled to bring proceedings, the Director of Human Rights Proceedings—

(i) agrees to the aggrieved individual bringing proceedings; or

(ii) declines to take proceedings.

Compare: 1977 No 49 s 38(4); 1983 No 56 s 12(2)

Section 83 heading: amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 83: amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 83(a): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 83(b): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

84 Remedies that may be sought

In any proceedings before the Human Rights Review Tribunal, the Director of Human Rights Proceedings or the aggrieved individual (as the case may be) may seek such of the remedies described in section 85 as he or she thinks fit.

Compare: 1977 No 49 s 38(5); 1983 No 56 s 12(3)

Section 84: amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

85 Powers of Human Rights Review Tribunal

(1) If, in any proceedings under section 82 or section 83, the Tribunal is satisfied on the balance of probabilities that any action of the defendant is an interference with the privacy of an individual, it may grant 1 or more of the following remedies:

(a) a declaration that the action of the defendant is an interference with the privacy of an individual:

(b) an order restraining the defendant from continuing or repeating the interference, or from engaging in, or causing or permitting others to engage in, conduct of the same kind as that constituting the interference, or conduct of any similar kind specified in the order:

(c) damages in accordance with section 88:

(d) an order that the defendant perform any acts specified in the order with a view to remedying the interference, or redressing any loss or damage suffered by the aggrieved individual as a result of the interference, or both:

(e) such other relief as the Tribunal thinks fit.

(2) In any proceedings under section 82 or section 83, the Tribunal may award such costs against the defendant as the Tribunal thinks fit, whether or not the Tribunal makes any other order, or may award costs against the plaintiff, or may decline to award costs against either party.

(3) Where the Director of Human Rights Proceedings is the plaintiff, any costs awarded against him or her shall be paid by the Privacy Commissioner, and the Privacy Commissioner shall not be entitled to be indemnified by the aggrieved individual (if any).

(4) It shall not be a defence to proceedings under section 82 or section 83 that the interference was unintentional or without negligence on the part of the defendant, but the Tribunal shall take the conduct of the defendant into account in deciding what, if any, remedy to grant.

Compare: 1977 No 49 s 38(6)–(8); 1983 No 56 s 12(4)

Section 85 heading: amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 85(3): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

86 Right of Director of Human Rights Proceedings to appear in proceedings

(1) Whether or not the Director of Human Rights Proceedings is or was a party to the proceedings before the Human Rights Review Tribunal, the Director may appear and be heard, in person or by counsel,—

(a) in any proceedings under this Part before the Human Rights Review Tribunal; and

(b) in relation to any proceedings that are or have been before the Human Rights Review Tribunal under this Part, in any proceedings in the District Court, the High Court, the Court of Appeal, or the Supreme Court.

(2) Where, pursuant to subsection (1), the Director of Human Rights Proceedings appears in any proceedings of a kind described in that subsection, he or she shall, unless those proceedings are by way of appeal, have the right—

(a) to call evidence on any matter (including evidence in rebuttal) that should be taken into account in the proceedings:

(b) to examine, cross-examine, and re-examine witnesses,—

but shall have no greater rights than parties to the proceedings in respect of the calling of evidence or evidence in rebuttal, or in respect of the examination, cross-examination, and re-examination of witnesses.

(3) Where, pursuant to subsection (1), the Director of Human Rights Proceedings, not being a party to any proceedings before the Tribunal, appears in those proceedings or in any proceedings in any court in relation to those proceedings, the Tribunal or the court, as the case may be, may make such order as it thinks fit—

(a) as to the payment by any party to the proceedings before the Tribunal or the court of the costs incurred by the Director of Human Rights Proceedings in so doing; or

(b) as to the payment by the Director of Human Rights Proceedings of any costs incurred by any of the parties to the proceedings before the Tribunal or the court by reason of the appearance of the Director of Human Rights Proceedings.

(4) Costs ordered to be paid by the Director of Human Rights Proceedings shall be paid by the Privacy Commissioner.

(5) The Privacy Commissioner may appear and be heard in any proceedings in which the Director of Human Rights Proceedings would be entitled to appear and be heard under this section but declines to do so, and, where the Privacy Commissioner so appears, the provisions of this section shall apply accordingly with all necessary modifications.

(6) Nothing in this section limits or affects—

(a) section 85(2); or

(b) any power of a court to award costs in any proceedings to which the Director of Human Rights Proceedings is a party.

Compare: 1977 No 49 s 38A; 1983 No 56 s 13

Section 86 heading: amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 86(1): replaced, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 86(1)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 86(2): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 86(3): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 86(3)(a): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 86(3)(b): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 86(4): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 86(5): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 86(6)(b): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

87 Proof of exceptions

Where, by any provision of the information privacy principles or of this Act or of a code of practice issued under section 46 or section 63, conduct is excepted from conduct that is an interference with the privacy of an individual, the onus of proving the exception in any proceedings under this Part lies upon the defendant.

Compare: 1977 No 49 s 39

88 Damages

(1) In any proceedings under section 82 or section 83, the Tribunal may award damages against the defendant for an interference with the privacy of an individual in respect of any 1 or more of the following:

(a) pecuniary loss suffered as a result of, and expenses reasonably incurred by the aggrieved individual for the purpose of, the transaction or activity out of which the interference arose:

(b) loss of any benefit, whether or not of a monetary kind, which the aggrieved individual might reasonably have been expected to obtain but for the interference:

(c) humiliation, loss of dignity, and injury to the feelings of the aggrieved individual.

(1A) Subsection (1) applies subject to subpart 1 of Part 2 of the Prisoners' and Victims' Claims Act 2005.

(2) Damages recovered by the Director of Human Rights Proceedings under this section shall be paid to the aggrieved individual on whose behalf the proceedings were brought or, if that individual is a minor who is not married or in a civil union or lacks the capacity to manage his or her own financial affairs, in the discretion of the Director of Human Rights Proceedings to Public Trust.

(3) Where money is paid to Public Trust under subsection (2),—

(a) sections 103 to 110 of the Contract and Commercial Law Act 2017 shall apply in the case of a minor who is not married or in a civil union; and

(b) Part 9A of the Protection of Personal and Property Rights Act 1988 shall apply in the case of an individual who lacks the capacity to manage his or her own financial affairs.

Compare: 1977 No 49 s 40; 1983 No 56 s 14; 1992 No 16 s 15(1)

Section 88(1A): inserted, on 4 June 2005, by section 74 of the Prisoners' and Victims' Claims Act 2005 (2005 No 74).

Section 88(2): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 88(2): amended, on 22 October 2003, by section 4 of the Privacy Amendment Act 2003 (2003 No 94).

Section 88(2): amended, on 19 December 2002, by section 3(1) of the Privacy Amendment Act 2002 (2002 No 73).

Section 88(2): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 88(2): amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 88(3): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 88(3)(a): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

Section 88(3)(a): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 88(3)(b): amended, on 19 December 2002, by section 3(2) of the Privacy Amendment Act 2002 (2002 No 73).

Section 88(3)(b): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

89 Certain provisions of Human Rights Act 1993 to apply

Sections 92Q to 92W and Part 4 of the Human Rights Act 1993 shall apply, with such modifications as are necessary, in respect of proceedings under section 82 or section 83 of this Act as if they were proceedings under section 92B, or section 92E, or section 92H of that Act.

Section 89: replaced, on 1 February 1994, by section 145 of the Human Rights Act 1993 (1993 No 82).

Section 89: amended, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Part 9
Proceedings of Commissioner

90 Procedure

(1) Every investigation under Part 8 by the Commissioner shall be conducted in private.

(2) Subject to section 120,—

(a) the Commissioner may hear or obtain information from such persons as the Commissioner thinks fit:

(b) the Commissioner may make such inquiries as the Commissioner thinks fit:

(c) it shall not be necessary for the Commissioner to hold any hearing:

(d) subject to section 73(b), no person shall be entitled as of right to be heard by the Commissioner.

(3) Subject to the provisions of this Act, the Commissioner may regulate his or her procedure in such manner as he or she thinks fit.

Compare: 1977 No 49 s 72

91 Evidence

(1) The Commissioner may summon before him or her and examine on oath any person who in the Commissioner's opinion is able to give information relevant to an investigation being conducted by the Commissioner under Part 8, or an inquiry being carried out by the Commissioner under section 13(1)(m).

(2) The Commissioner may administer an oath to any person summoned pursuant to subsection (1).

(3) Every examination by the Commissioner under subsection (1) shall be deemed to be a judicial proceeding within the meaning of section 108 of the Crimes Act 1961 (which relates to perjury).

(4) The Commissioner may from time to time, by notice in writing, require any person who in the Commissioner's opinion is able to give information relevant to an investigation being conducted by the Commissioner under Part 8, or an inquiry being carried out by the Commissioner under section 13(1)(m), to furnish such information, and to produce such documents or things in the possession or under the control of that person, as in the opinion of the Commissioner are relevant to the subject matter of the investigation or inquiry.

(5) Where the attendance of any person is required by the Commissioner under this section, the person shall be entitled to the same fees, allowances, and expenses as if the person were a witness in a court and, for the purpose,—

(a) the provisions of any regulations in that behalf under the Criminal Procedure Act 2011 shall apply accordingly; and

(b) the Commissioner shall have the powers of a court under any such regulations to fix or disallow, in whole or in part, or to increase, any amounts payable under the regulations.

Compare: 1977 No 49 s 73(1), (2), (7); 1991 No 126 ss 24, 26(5)

Section 91(5)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

92 Compliance with requirements of Commissioner

(1) This section applies in every case where, during the course of an investigation under Part 8 of any decision of any agency in relation to an information privacy request, the Commissioner, pursuant to any power conferred on the Commissioner by section 91, requires that agency to furnish or produce to the Commissioner any information or document or thing which relates to that investigation.

(2) In any case to which this section applies, the agency to which the requirement is made shall, subject to section 93, as soon as reasonably practicable, and in

no case later than 20 working days after the day on which the requirement is received by the agency, comply with the requirement.

(3) If any agency (being a department or a Minister or an organisation) fails, within the time limit fixed by subsection (2) (or, where that time limit has been extended under section 93, within that time limit as so extended), to comply with any requirement to which subsection (1) applies, the Commissioner may report such failure to the Prime Minister.

Compare: 1982 No 156 s 29A(1), (6); 1987 No 8 s 17(3); 1987 No 174 s 29(1); 1991 No 126 s 25(1), (6)

93 Extension of time limit

(1) Where any requirement to which section 92 applies is made to any agency, the agency may extend the time limit set out in subsection (2) of that section in respect of that requirement if—

(a) the requirement relates to, or necessitates a search through, a large quantity of information or a large number of documents or things, and meeting the original time limit would unreasonably interfere with the operations of the agency; or

(b) consultations necessary before the requirement can be complied with are such that the requirement cannot reasonably be complied with within the original time limit; or

(c) the complexity of the issues raised by the requirement are such that the requirement cannot reasonably be complied with within the original time limit.

(2) Any extension under subsection (1) shall be for a reasonable period of time having regard to the circumstances.

(3) The extension shall be effected by giving or posting notice of the extension to the Commissioner within 20 working days after the day on which the requirement is received.

(4) The notice effecting the extension shall—

(a) specify the period of the extension; and

(b) give the reasons for the extension; and

(c) contain such other information as is necessary.

Compare: 1982 No 156 s 29A(2)–(5); 1987 No 8 s 17(3); 1987 No 174 s 29(2)–(5); 1991 No 126 s 25(2)–(4)

94 Protection and privileges of witnesses, etc

(1) Except as provided in section 119, every person shall have the same privileges in relation to the giving of information to, the answering of questions put by, and the production of documents and things to, the Commissioner or any employee of the Commissioner as witnesses have in any court.

(1A) Nothing in subsection (1) prevents the Commissioner or any employee of the Commissioner from—

(a) requiring, under section 91, the furnishing of any information or the production of any document or thing which is the subject of a complaint under Part 8 and in respect of which privilege is claimed by any person; and

(b) considering the information or inspecting any such document or thing—

for the purpose of determining whether the information, document, or thing would be properly withheld, but not so as to give the Commissioner or employee any information, or enable the Commissioner or employee to make any use of the information, document, or thing, that he or she would not, apart from this subsection, be entitled to.

(1B) On the production of any information, document, or thing pursuant to subsection (1A), the Commissioner or any employee of the Commissioner—

(a) must not, without the consent of the producer of the information, document, or thing, and of any person who is the subject of the information, document, or thing, release the information, document, or thing, or any information derived from the document or thing, to any person other than—

(i) the producer of the information, document, or thing; or

(ii) any barrister or solicitor engaged by the Commissioner for the purpose of providing legal advice as to whether the information, document, or thing would be properly withheld by that producer under subsection (1); or

(iii) where the Commissioner gives his or her opinion on the claim of privilege to the Director of Human Rights Proceedings under paragraph (b), to the Director of Human Rights Proceedings:

(b) may give his or her opinion only to the parties to the complaint or to the Director of Human Rights Proceedings or to the Human Rights Review Tribunal as to whether or not the claim of privilege is valid:

provided that nothing in this paragraph prevents the Commissioner or any employee of the Commissioner from releasing, either generally or to any particular person, the opinion in a form that does not identify either the producer of the information, document, or thing or any person who is the subject of the information, document, or thing:

(c) must not take into account the information or any information in the document or thing in forming any opinion concerning the release of any other information.

(2) No person shall be liable to prosecution for an offence against any enactment, other than section 127, by reason of that person's compliance with any require-

ment of the Commissioner or any employee of the Commissioner under section 91.

Compare: 1975 No 9 s 19(5), (7); 1977 No 49 s 73(3), (6); 1991 No 126 s 26(1), (4)

Section 94(1A): inserted, on 17 September 1997, by section 2 of the Privacy Amendment Act 1997 (1997 No 71).

Section 94(1B): inserted, on 17 September 1997, by section 2 of the Privacy Amendment Act 1997 (1997 No 71).

Section 94(1B)(a)(iii): amended, on 22 October 2003, by section 5(1) of the Privacy Amendment Act 2003 (2003 No 94).

Section 94(1B)(b): amended, on 22 October 2003, by section 5(1) of the Privacy Amendment Act 2003 (2003 No 94).

Section 94(1B)(b): amended, on 22 October 2003, by section 5(2) of the Privacy Amendment Act 2003 (2003 No 94).

95 Disclosures of information, etc

(1) Subject to subsection (2) and to section 94, any person who is bound by the provisions of any enactment to maintain secrecy in relation to, or not to disclose, any matter may be required to supply any information to, or answer any question put by, the Commissioner in relation to that matter, or to produce to the Commissioner any document or thing relating to it, notwithstanding that compliance with that requirement would otherwise be in breach of the obligation of secrecy or non-disclosure.

(2) Compliance with a requirement of the Commissioner (being a requirement made pursuant to subsection (1)) is not a breach of the relevant obligation of secrecy or non-disclosure or of the enactment by which that obligation is imposed.

(3) Where—

(a) the Prime Minister certifies that the giving of any information, or the production of any document or thing, might prejudice—

(i) the security or defence of New Zealand, or the international relations of the Government of New Zealand; or

(ii) any interest protected by section 7 of the Official Information Act 1982 (which relates to the Cook Islands, Niue, Tokelau, and the Ross Dependency); or

(b) the Attorney-General certifies that the giving of any information, or the production of any document or thing,—

(i) might prejudice the prevention, investigation, or detection of offences; or

(ii) might involve the disclosure of proceedings of Cabinet, or any committee of Cabinet, relating to matters of a secret or confidential nature, and such disclosure would be injurious to the public interest,—

neither the Commissioner nor any employee of the Commissioner shall require the information to be given or, as the case may be, the document or thing to be produced.

Compare: 1975 No 9 ss 19(3), (4), 20(1); 1977 No 49 s 74; 1987 No 8 s 24(1); 1991 No 126 ss 26(2), (3), 27

96 Proceedings privileged

(1) This section applies to—

(a) the Commissioner; and

(b) every person engaged or employed in connection with the work of the Commissioner.

(2) Subject to subsection (3),—

(a) *[Repealed]*

(b) no person to whom this section applies shall be required to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his or her knowledge in the exercise of his or her functions.

(3) Nothing in subsection (2) applies in respect of proceedings for—

(a) an offence against section 78, 78AA(1), 78A(1), 105, 105A, or 105B of the Crimes Act 1961; or

(b) the offence of conspiring to commit an offence against section 78, 78AA(1), 78A(1), 105, 105A, or 105B of the Crimes Act 1961.

(4) Anything said or any information supplied or any document or thing produced by any person in the course of any inquiry by or proceedings before the Commissioner under this Act shall be privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

(5) For the purposes of clause 3 of Part 2 of Schedule 1 of the Defamation Act 1992, any report made under this Act by the Commissioner shall be deemed to be an official report made by a person holding an inquiry under the authority of the Parliament of New Zealand.

Compare: 1975 No 9 s 26; 1982 No 164 s 5; 1991 No 126 s 29

Section 96(2)(a): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 96(3)(a): amended, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

Section 96(3)(b): amended, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

Part 9A
Information sharing

Part 9A: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Subpart 1—Preliminary matters

Subpart 1: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96A Purpose of Part

(1) The purpose of this Part is to enable the sharing of personal information to facilitate the provision of public services.

(2) To achieve that purpose, this Part—

(a) provides a mechanism for the approval of information sharing agreements for the sharing of information between or within agencies; and

(b) authorises exemptions from or modifications to—

(i) any of the information privacy principles (except principles 6 and 7, which relate respectively to the right to have access to, and correct, personal information):

(ii) any code of practice (except any code of practice that modifies principles 6 and 7); and

(c) reduces any uncertainty about whether personal information can be lawfully shared for the provision of the public services, and in the circumstances, described in approved information sharing agreements.

Section 96A: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96B Relationship between Part 9A and other law relating to information disclosure

(1) To avoid doubt, nothing in this Part—

(a) limits the collection, use, or disclosure of personal information that is authorised or required by or under any enactment; and

(b) compels agencies to enter into an information sharing agreement if those agencies are already allowed to share personal information—

(i) by or under any other enactment:

(ii) in circumstances where an exemption from or a modification to any 1 or more of the information privacy principles or any code of practice is not required to make the sharing of the information lawful.

(2) Without limiting subsection (1)(a),—

(a) this Part does not limit section 7, 54 or 57; and

(b) this Part does not limit Part 10, 10A, or 11.

(3) An information sharing agreement may—

(a) duplicate an information sharing provision by providing for an agency to share the same personal information as specified in the information sharing provision—

(i) with the same agencies specified in the information sharing provision; and

(ii) for the same purposes specified in the information sharing provision; or

(b) extend an information sharing provision that is not a restricted information sharing provision by providing for an agency to share the same personal information as specified in the information sharing provision—

(i) with the same agencies specified in the information sharing provision for a purpose not specified in the information sharing provision; or

(ii) with an agency not specified in the information sharing provision for a purpose specified in the information sharing provision; or

(iii) with an agency not specified in the information sharing provision and for a purpose not specified in the information sharing provision; or

(c) duplicate a restricted information sharing provision by providing for an agency to share the same personal information as specified in the restricted information sharing provision—

(i) with the same agencies specified in the restricted information sharing provision; and

(ii) for the same purposes specified in the restricted information sharing provision; or

(d) extend in any manner specified in paragraph (b) a restricted information sharing provision only if—

(i) the restricted information sharing provision is an information matching provision (as defined in section 97); or

(ii) there is express statutory authorisation to do so.

(4) In subsection (3),—

information sharing provision means a provision in any enactment other than this Act that authorises or requires the sharing of personal information by an agency with 1 or more other agencies for 1 or more specified purposes

restricted information sharing provision means an information sharing provision that expressly restricts the purposes for which the personal information may be shared to those purposes specified.

Section 96B: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Section 96B heading: replaced, on 22 August 2017, by section 4(1) of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

Section 96B(2)(b): replaced, on 22 August 2017, by section 4(2) of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

96C Interpretation

In this Part, unless the context otherwise requires,—

adverse action has the meaning given to it by section 97 and includes a decision to impose a penalty or a fine or to recover a penalty or a fine

approved information sharing agreement means an information sharing agreement approved by an Order in Council that is for the time being in force

code of practice means a code of practice issued under section 46

department has the meaning given to it by section 2(1) and also includes—

(a) the New Zealand Police:

(b) the New Zealand Transport Agency

information sharing agreement or **agreement** means an agreement between or within agencies that enables the sharing of personal information (whether or not the sharing also includes information that is not personal information) to facilitate the provision of a public service

lead agency means a department that enters into an information sharing agreement and is designated as the lead agency in—

(a) the agreement; and

(b) the Order in Council approving the agreement

local authority means a local authority or public body named or specified in Schedule 1 of the Local Government Official Information and Meetings Act 1987

Order in Council, except in sections 96V(3) and 96Z, means an Order in Council made under section 96J(1)

organisation means—

(a) an organisation named in Part 2 of Schedule 1 of the Ombudsmen Act 1975; and

(b) an organisation named in Schedule 1 of the Official Information Act 1982

private sector agency means a non-government agency

public sector agency means a department, an organisation, or a local authority

public service means a public function or duty that is conferred or imposed on a public sector agency—

(a) by or under law; or

(b) by a policy of the Government

relevant Minister means the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for a lead agency

sharing, in relation to any information, means all or any of the following if authorised by an approved information sharing agreement:

(a) collecting the information:

(b) storing the information:

(c) checking the information:

(d) using the information:

(e) disclosing the information:

(f) exchanging the information:

(g) if necessary, assigning a unique identifier to an individual.

Section 96C: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Subpart 2—Information sharing agreements

Subpart 2: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Authority for information sharing

Heading: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96D Information sharing between agencies

An approved information sharing agreement may authorise an agency to share any personal information with 1 or more other agencies in accordance with the terms of the agreement.

Section 96D: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96E Information sharing within agencies

An approved information sharing agreement may authorise a part of an agency to share any personal information with 1 or more parts of the same agency in accordance with the terms of the agreement.

Section 96E: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Parties

Heading: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96F Parties to information sharing agreement

(1) Any 2 or more of the following may enter into an information sharing agreement:

(a) a public sector agency:

(b) a private sector agency:

(c) a part of a public sector agency:

(d) a part of a private sector agency.

(2) Subsection (1) is subject to subsections (3) and (4).

(3) An overseas agency may not enter into an information sharing agreement.

(4) At least 1 of the agencies that enters into an information sharing agreement must be—

(a) a public sector agency that is a department; or

(b) part of a public sector agency that is a department.

Section 96F: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96G Representative parties

(1) An agency that represents the interests of a class of agencies may enter into an information sharing agreement with a department if that agency is—

(a) a public sector agency that is not a department; or

(b) a private sector agency.

(2) If an agreement is proposed to be entered into under subsection (1), any agency (except a department) that is a member of the class of agencies referred to in that subsection may become a party to the agreement by being sufficiently identified in a schedule to the agreement (a **Schedule of Parties**).

(3) At any time after an agreement has been entered into the lead agency may, with or without the consent of any agency,—

(a) amend the Schedule of Parties to add or remove agencies as parties:

(b) substitute a new Schedule of Parties.

(4) An agency that becomes a party to the agreement under subsection (2) or (3) may, but need not, share or participate in the sharing of any personal information with 1 or more other agencies in accordance with the terms of the agreement.

(5) Unless the context otherwise requires, every reference in this Part to a party to an information sharing agreement includes an agency that becomes a party to an agreement under subsection (2) or (3).

Section 96G: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Lead agency

Heading: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96H Determining which party is lead agency

(1) If only 1 public sector agency that is a department enters into an information sharing agreement, it must be designated as the lead agency for the agreement.

(2) If more than 1 public sector agency that is a department enters into an information sharing agreement, the parties to the agreement may agree between themselves which of those public sector agencies is to be designated as the lead agency.

Section 96H: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Form and content

Heading: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96I Form and content of information sharing agreement

(1) An information sharing agreement must be in writing.

(2) An information sharing agreement must—

(a) specify with due particularity the purpose of the information sharing agreement:

(b) set out the information referred to in section 96K:

(c) contain an overview of the operational details about the sharing of information under the agreement:

(d) specify the safeguards that will apply to protect the privacy of individuals and ensure that any interference with their privacy is minimised:

(e) if a party to the agreement is a private sector agency, state which public sector agency will be responsible for dealing with complaints about an alleged interference with privacy if the private sector agency is unable to be held to account for those complaints:

(f) state that every party to the agreement must give any reasonable assistance that is necessary in the circumstances to allow the Commissioner or an individual who wishes to make a complaint about an interference with privacy to determine the agency against which the complaint should be made:

(g) if entered into under section 96G,—

(i) identify the party that is a public sector agency or private sector agency representing the interests of a class of agencies; and

(ii) describe that class of agencies; and

(iii) include a schedule that sufficiently identifies the public sector agencies or private sector agencies within that class that are parties to the agreement.

(3) An information sharing agreement may specify any other terms or conditions that the parties may agree, including—

(a) the fees and charges that are payable under the agreement; and

(b) any other business processes relating to the sharing of information under the agreement.

Section 96I: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Approval of information sharing agreements

Heading: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96J Governor-General may approve information sharing agreement by Order in Council

(1) The Governor-General may, by Order in Council made on the recommendation of the relevant Minister, approve an information sharing agreement.

(2) An Order in Council may grant an exemption from or modify the application of—

(a) any 1 or more of the information privacy principles (except principles 6 and 7):

(b) any code of practice (except any code of practice that modifies principles 6 and 7).

(3) An Order in Council that, under subsection (2), grants an exemption from any 1 or more of the information privacy principles (except principles 6 and 7) or any code of practice (except any code of practice that modifies principles 6 and 7) may provide that the exemption is unconditional or is subject to any conditions that are prescribed in the Order in Council.

(4) An Order in Council that, under subsection (2), modifies the application of any 1 or more of the information privacy principles or any code of practice may do so by prescribing standards that are more stringent or less stringent than the standards that are prescribed by the principle or, as the case may be, the code of practice.

Section 96J: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96K Requirements for Order in Council

An Order in Council must—

(a) state, if applicable,—

(i) the nature of the exemption granted under section 96J(2) and the conditions of the exemption (if any):

(ii) how any of the information privacy principles or any code of practice will be modified under section 96J(2):

(b) state the public service or public services the provision of which the information sharing agreement is intended to facilitate:

(c) specify with due particularity the personal information or the type of personal information to be shared under the agreement:

(d) set out the parties, or classes of parties, to the agreement and designate 1 of the parties as the lead agency:

(e) for every party to the agreement,—

(i) describe the personal information or type of personal information that the party may share with each of the other parties; and

(ii) state how the party may use the personal information; and

(iii) state the adverse actions that the party can reasonably be expected to take as a result of sharing personal information under the agreement; and

(iv) specify the procedure that the party must follow before taking adverse action against an individual as a result of sharing personal information under the agreement if the requirement in section 96Q(1) does not apply because of section 96R(a)(ii):

(f) state how a copy of the agreement can be accessed.

Section 96K: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96L Further provisions about Order in Council

(1) An Order in Council must provide that it comes into force on a date specified in the Order in Council (which must not be a date that is before the date on which it is made).

(2) An Order in Council remains in force until it—

(a) expires on a date appointed in the Order in Council (if any); or

(b) is revoked.

(3) An Order in Council must insert into Schedule 2A—

(a) a description of each of the following:

(i) the information sharing agreement that is approved by the Order in Council:

(ii) the public service or the public services the provision of which the agreement is intended to facilitate:

(iii) the personal information or type of personal information that may be shared between or within the agencies that are party to the agreement; and

(b) the name of the agreement; and

(c) the name of the lead agency for the agreement; and

(d) the Internet site address where a copy of the agreement can be accessed.

Section 96L: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96M Application of Legislation Act 2012

An Order in Council—

(a) is a legislative instrument for the purposes of the Legislation Act 2012; and

(b) is a disallowable instrument for the purposes of the Legislation Act 2012; and

(c) must be presented to the House of Representatives under section 41 of that Act.

Section 96M: replaced, on 5 August 2013, by section 129B.

Procedure for recommending Order in Council

Heading: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96N Matters to which relevant Minister must have regard before recommending Order in Council

(1) Before recommending the making of an Order in Council, the relevant Minister must—

(a) be satisfied of the matters set out in subsection (2); and

(b) have regard to any submissions made under section 96O(1)(a) in relation to the information sharing agreement that is proposed for approval by the Order in Council.

(2) The matters referred to in subsection (1)(a) are as follows:

(a) that the information sharing agreement will facilitate the provision of any public service or public services:

(b) that the type and quantity of personal information to be shared under the agreement are no more than is necessary to facilitate the provision of that public service or those public services:

(c) that the agreement does not unreasonably impinge on the privacy of individuals and contains adequate safeguards to protect their privacy:

(d) that the benefits of sharing personal information under the agreement are likely to outweigh the financial and other costs of sharing it:

(e) that any potential conflicts or inconsistencies between the sharing of personal information under the agreement and any other enactment have been identified and appropriately addressed.

Section 96N: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96O Consultation on proposed information sharing agreement

(1) The agencies proposing to enter into an information sharing agreement must, before the proposed agreement is concluded,—

(a) consult with, and invite submissions on the proposed agreement from,—

(i) the Commissioner; and

(ii) any person or organisation that the agencies consider represents the interests of the classes of individuals whose personal information will be shared under the proposed agreement; and

(iii) any other person or organisation that the agencies consider should be consulted; and

(b) have regard to any submissions made under paragraph (a).

(2) The Commissioner—

(a) must consider the privacy implications of the proposed agreement; and

(b) may make any submissions under subsection (1)(a)(i) that he or she thinks fit.

(3) The agencies must give the relevant Minister a copy of the submissions made under subsection (1)(a) (if any).

Section 96O: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Commissioner's report on approved information sharing agreement

Heading: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96P Commissioner may prepare and publish report on approved information sharing agreement

(1) If an information sharing agreement is approved by Order in Council, the Commissioner may prepare a report to the relevant Minister on any matter relating to privacy that arises or is likely to arise in respect of the agreement.

(2) Without limiting subsection (1), the Commissioner may include in a report under that subsection—

(a) any comment that he or she wishes to make about the consultation that the agencies carried out under section 96O(1)(a); and

(b) any submissions that he or she made to the agencies under section 96O(1)(a)(i).

(3) The Commissioner—

(a) may publish a report under subsection (1); but

(b) must consult the relevant Minister before doing so.

Section 96P: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Subpart 3—Matters relating to operation of approved information sharing agreements

Subpart 3: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Notice of adverse action

Heading: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96Q Requirement to give notice of adverse action

(1) A party to an approved information sharing agreement must give written notice to an individual before it takes any adverse action against the individual on the basis (whether wholly or in part) of personal information about the individual that was shared under the agreement.

(2) The notice must—

(a) give details of the adverse action that the party proposes to take and the personal information about the individual on which the action is based; and

(b) state that the individual has 10 working days from the receipt of the notice in which to dispute the correctness of that personal information.

(3) To avoid doubt, an individual who is given the notice may take any steps that are available under any enactment to dispute any proposed adverse action against him or her, but he or she may show cause under this section as to why the proposed adverse action should not be taken only on the basis that it is based on incorrect personal information.

Section 96Q: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96R When requirement to give notice of adverse action applies

The requirement to give notice under section 96Q applies unless—

(a) an approved information sharing agreement provides that a party to the agreement may—

(i) give a shorter period of notice than the 10-working-day period referred to in section 96Q(2)(b); or

(ii) dispense with the giving of the notice; or

(b) if an approved information sharing agreement does not provide in the manner specified in paragraph (a), the Commissioner, on the application of a party to an approved information sharing agreement, allows the party in the circumstances of a particular case to—

(i) give a shorter period of notice than the 10-working-day period referred to in section 96Q(2)(b); or

(ii) dispense with the giving of the notice.

Section 96R: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Responsibilities of lead agency

Heading: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96S Responsibilities of lead agency

(1) A lead agency for an information sharing agreement must, if the agreement is approved by Order in Council under section 96J(1),—

(a) make a copy of the agreement—

(i) available for inspection, free of charge, at the lead agency's head office on any working day; and

(ii) accessible, free of charge, on an Internet site maintained by or on behalf of the lead agency; and

(b) prepare a report on the operation of the agreement at the intervals required by the Commissioner under section 96U; and

(c) carry out any other responsibilities imposed by this Part.

(2) A lead agency does not need to comply with subsection (1)(a)(ii) if the relevant Minister designates an Internet site maintained by or on behalf of another public sector agency as the Internet site where a copy of the agreement is to be made accessible free of charge.

(3) To avoid doubt, nothing in this section applies to a party to an information sharing agreement that is not the lead agency except as provided in subsection (2).

Section 96S: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96T Report of lead agency

(1) A report prepared by a lead agency under section 96S(1)(b) must include the matters prescribed in regulations made under this Act that the Commissioner specifies to the lead agency after having regard to—

(a) the costs of reporting:

(b) the degree of public interest in information about the matters prescribed in those regulations:

(c) the significance of the privacy implications of the approved information sharing agreement.

(2) A report must be included—

(a) in the lead agency's annual report under the Public Finance Act 1989, if it is required annually; or

(b) in the lead agency's annual report under the Public Finance Act 1989 that immediately follows the end of each interval specified under section 96U(1)(b).

Section 96T: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96U Commissioner may specify frequency of reporting by lead agency

(1) The Commissioner may require a lead agency to prepare a report under section 96S(1)(b) either—

(a) annually; or

(b) at less frequent intervals that the Commissioner may specify.

(2) In determining the appropriate frequency in subsection (1) of a report under section 96S(1)(b), the Commissioner must have regard to—

(a) the costs of reporting:

(b) the degree of public interest in information about the matters prescribed in regulations made under this Act:

(c) the significance of the privacy implications of the approved information sharing agreement.

Section 96U: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Amendment of approved information sharing agreements

Heading: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96V Amendment of approved information sharing agreement

(1) This section applies if the parties to an approved information sharing agreement amend the agreement (whether in accordance with the Commissioner's recommendation in a report under section 96X(1) or otherwise).

(2) As soon as practicable after the amendment is made, the lead agency must—

(a) give written notice of the amendment to—

(i) the Commissioner; and

(ii) the relevant Minister; and

(b) make a copy of the amendment—

(i) available for inspection, free of charge, at the lead agency's head office on any working day; and

(ii) accessible, free of charge, on the Internet site where a copy of the agreement is accessible.

(3) The information sharing agreement approved by Order in Council continues to have effect as if the amendment notified under subsection (2) had not been made unless the Governor-General, by a further Order in Council made on the recommendation of the relevant Minister, approves the agreement as amended by the parties.

(4) Sections 96J to 96P apply, subject to any necessary modifications, to the approval of the agreement as so amended.

(5) Nothing in subsection (2)(a), (3), or (4) applies if the amendment to an approved information sharing agreement relates only to—

(a) the fees and charges payable under the agreement; or

(b) the name or description of a party to the agreement; or

(c) any terms or conditions of the agreement that the lead agency considers, after consulting the Commissioner, do not, or are unlikely to, have any effect on the privacy implications of the agreement.

Section 96V: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Review of approved information sharing agreement

Heading: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96W Review of operation of approved information sharing agreement

(1) The Commissioner may, on his or her own initiative, conduct a review of the operation of an approved information sharing agreement—

(a) at the end of a period of 12 months after the Order in Council approving the agreement is made; and

(b) at any time that the Commissioner considers appropriate for any subsequent reviews.

(2) In conducting a review, the Commissioner must—

(a) consult the following about the review:

(i) the parties to the agreement:

(ii) any person or organisation that the Commissioner considers represents the interests of the classes of individuals whose personal information is being shared under the agreement; and

(b) consider any submissions made on the review.

(3) The parties to the agreement must take all reasonable steps to co-operate with the review.

Section 96W: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96X Report on findings of review

(1) After completing a review under section 96W, the Commissioner may report to the relevant Minister if he or she has reasonable grounds to suspect that an approved information sharing agreement is—

(a) operating in an unusual or unexpected way (that is, in a way that was not foreseen by the Commissioner or the parties to the agreement at the time the agreement was entered into):

(b) failing to facilitate the provision of the public service or public services to which it relates:

(c) unreasonably impinging on the privacy of individuals:

(d) operating in such a way that the costs of sharing personal information under the agreement outweigh the benefits of sharing it.

(2) The Commissioner may recommend in the report that—

(a) the parties to the agreement should amend it in 1 or more material respects; or

(b) the Order in Council by which the agreement was approved should be revoked.

Section 96X: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96Y Relevant Minister must present to House of Representatives copy of report under section 96X(1) and report setting out Government's response

The relevant Minister must—

(a) present a copy of a report under section 96X(1) to the House of Representatives within 5 working days after receiving it from the Commissioner or, if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament; and

(b) as soon as possible after complying with paragraph (a), present a report to the House of Representatives setting out the Government's response to the report under section 96X(1).

Section 96Y: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Subpart 4—Miscellaneous

Subpart 4: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

96Z Power to amend Schedule 2A

(1) Without limiting the matters that an Order in Council made under section 96J must insert into Schedule 2A in accordance with section 96L(3), the Governor-General may, by Order in Council,—

(a) make any amendments to Schedule 2A that are required—

(i) to recognise the abolition or dissolution of any agency that is party to an approved information sharing agreement or any change in the name of such an agency; or

(ii) to reflect any change in the Internet site address where a copy of an approved information sharing agreement can be accessed; or

(iii) to reflect any amendments to an approved information sharing agreement that are approved under section 96V; or

(iv) to correct any error or omission in any description in that schedule:

(b) remove any description or matter in Schedule 2A, including all of the descriptions or matters relating to an approved information sharing agreement if the Order in Council by which it was approved has expired or has been revoked:

(c) otherwise amend or replace Schedule 2A.

(2) To avoid doubt, any of the matters set out in this section may be included in an Order in Council made under section 96J or in a separate Order in Council made under this section.

Section 96Z: inserted, on 27 February 2013, by section 8 of the Privacy Amendment Act 2013 (2013 No 1).

Part 10
Information matching

Interpretation

97 Interpretation

In this Part, unless the context otherwise requires,—

adverse action means any action that may adversely affect the rights, benefits, privileges, obligations, or interests of any specific individual; and, without limiting the generality of the foregoing, includes any decision—

(a) to cancel or suspend any monetary payment:

(b) to refuse an application for a monetary payment:

(c) to alter the rate or amount of a monetary payment:

(d) to recover an overpayment of a monetary payment:

(e) to make an assessment of the amount of any tax, levy, or other charge, or of any contribution, that is payable by any individual, or to alter any such assessment:

(f) to investigate the possible commission of an offence:

(g) to make a deportation order in relation to the individual, to serve the individual with a deportation liability notice, or to deport the individual from New Zealand

authorised information matching information in relation to any specified agency, means information that consists of or includes information disclosed pursuant to an information matching provision

authorised information matching programme means the comparison (whether manually or by means of any electronic or other device) of authorised information matching information with other personal information for the purpose of producing or verifying information about an identifiable individual

discrepancy, in relation to an authorised information matching programme, means a result of that programme that warrants the taking of further action by any agency for the purpose of giving effect to the objective of the programme

information matching programme means the comparison (whether manually or by means of any electronic or other device) of any document that contains personal information about 10 or more individuals with 1 or more other documents that contain personal information about 10 or more individuals, for the purpose of producing or verifying information that may be used for the purpose of taking adverse action against an identifiable individual

information matching provision means any provision specified in the second column of Schedule 3 as an information matching provision of an enactment specified in the first column of that schedule

information matching rules means the rules for the time being set out in Schedule 4

monetary payment includes—

(a) a benefit within the meaning of section 3(1) of the Social Security Act 1964:

(b) a lump sum payable under section 61DB or section 61DC or section 61DD of that Act:

(c) any special assistance granted out of a Crown Bank Account from money appropriated by Parliament under section 124(1)(d) or (da) of that Act:

(d) any monetary entitlement payable under Part 4, Part 10, or Part 11 of the Accident Compensation Act 2001

specified agency means any of the following agencies:

(a) the Accident Compensation Corporation:

(aa) the Regulator, as defined by Part 10 of the Accident Compensation Act 2001:

(b) the Electoral Commission established by section 4B of the Electoral Act 1993:

(ba) the company within the meaning of section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992:

(bb) the Board of the Government Superannuation Fund Authority:

(bc) the Board of Trustees of the National Provident Fund:

(bd) the Ministry of Health:

(c) the Ministry of Justice:

(d) the Department of Corrections:

(e) the Ministry of Business, Innovation, and Employment:

(f) the department for the time being responsible for the administration of the Social Security Act 1964:

(fa) the Housing New Zealand Corporation established (as the Housing Corporation of New Zealand) by section 3(1) of the Housing Corporation Act 1974:

(g) the Inland Revenue Department:

(ga) the Ministry of Transport:

(gb) the New Zealand Transport Agency:

(gc) the Department of Internal Affairs:

(gd) the Registrar-General appointed under section 79(1) of the Births, Deaths, Marriages, and Relationships Registration Act 1995:

(h) the New Zealand Customs Service:

(ha) the Registrar of Motor Vehicle Traders:

(i) the Regulator, as defined in the Accident Insurance Act 1998:

(ia) WorkSafe New Zealand:

(j) any tertiary institution, secondary school, or private training establishment (as those terms are defined in the Education Act 1989) to which section 226A or section 238B of that Act applies, as from time to time notified to the Commissioner by the department for the time being responsible for the administration of the Social Security Act 1964:

(k) the Ministry of Education:

(l) the Teaching Council of Aotearoa New Zealand continued under Part 32 of the Education Act 1989:

(m) the agency or agencies appointed under section 100 of the Housing Restructuring and Tenancy Matters Act 1992.

Compare: 1991 No 126 s 2

Section 97 **adverse action** paragraph (g): replaced, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Section 97 **monetary payment** paragraph (c): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Section 97 **monetary payment** paragraph (d): replaced, on 1 April 2002, by section 337(1) of the Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49).

Section 97 **monetary payment** paragraph (d): amended, on 3 March 2010, pursuant to section 5(1)(b) of the Accident Compensation Amendment Act 2010 (2010 No 1).

Section 97 **specified agency**: replaced, on 15 November 2000, by section 3(1) of the Privacy Amendment Act 2000 (2000 No 76).

Section 97 **specified agency** paragraph (aa): inserted, on 1 April 2002, by section 337(1) of the Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49).

Section 97 **specified agency** paragraph (aa): amended, on 3 March 2010, pursuant to section 5(1)(b) of the Accident Compensation Amendment Act 2010 (2010 No 1).

Section 97 **specified agency** paragraph (b): amended, on 1 July 2012, by section 59(2) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 97 **specified agency** paragraph (ba): inserted, on 1 July 2006, by section 8(1) of the Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006 (2006 No 34).

Section 97 **specified agency** paragraph (bb): inserted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 97 **specified agency** paragraph (bc): inserted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 97 **specified agency** paragraph (bd): inserted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 97 **specified agency** paragraph (c): amended, on 1 October 2003, pursuant to section 14(1) of the State Sector Amendment Act 2003 (2003 No 41).

Section 97 **specified agency** paragraph (e): replaced, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 97 **specified agency** paragraph (fa): inserted, on 1 July 2006, by section 8(2) of the Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006 (2006 No 34).

Section 97 **specified agency** paragraph (ga): inserted, on 18 March 2002, by section 101(3) of the Electoral Amendment Act 2002 (2002 No 1).

Section 97 **specified agency** paragraph (gb): replaced, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 97 **specified agency** paragraph (gc): inserted, on 18 March 2002, by section 101(3) of the Electoral Amendment Act 2002 (2002 No 1).

Section 97 **specified agency** paragraph (gd): inserted, on 21 April 2005, by section 16 of the Citizenship Amendment Act 2005 (2005 No 43).

Section 97 **specified agency** paragraph (gd): amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 97 **specified agency** paragraph (ha): inserted, on 15 December 2003, by section 145 of the Motor Vehicle Sales Act 2003 (2003 No 12).

Section 97 **specified agency** paragraph (ia): inserted, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 97 **specified agency** paragraph (k): inserted, on 1 February 2002, by section 83 of the Education Standards Act 2001 (2001 No 88).

Section 97 **specified agency** paragraph (l): inserted, on 20 May 2010, by section 78(2) of the Education Amendment Act 2010 (2010 No 25).

Section 97 **specified agency** paragraph (l): amended, on 29 September 2018, by section 12(1) of the Education (Teaching Council of Aotearoa New Zealand) Amendment Act 2018 (2018 No 35).

Section 97 **specified agency** paragraph (m): inserted, on 14 April 2014, by section 25 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

97A Relationship between Part 10 and other law relating to information disclosure

This Part does not—

(a) limit the collection, use, or disclosure of personal information that—

(i) is authorised or required by or under any enactment; or

(ii) is permitted by the information privacy principles:

(b) limit Part 9A, 10A, or 11.

Section 97A: inserted, on 22 August 2017, by section 5 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

Information matching guidelines

98 Information matching guidelines

The following matters are the matters referred to in section 13(1)(f) to which the Commissioner shall have particular regard, in examining any proposed legislation that makes provision for the collection of personal information by any public sector agency, or the disclosure of personal information by one public sector agency to any other public sector agency, in any case where the Commissioner considers that the information might be used for the purposes of an information matching programme:

(a) whether or not the objective of the programme relates to a matter of significant public importance:

(b) whether or not the use of the programme to achieve that objective will result in monetary savings that are both significant and quantifiable, or in other comparable benefits to society:

(c) whether or not the use of an alternative means of achieving that objective would give either of the results referred to in paragraph (b):

(d) whether or not the public interest in allowing the programme to proceed outweighs the public interest in adhering to the information privacy principles that the programme would otherwise contravene:

(e) whether or not the programme involves information matching on a scale that is excessive, having regard to—

(i) the number of agencies that will be involved in the programme; and

(ii) the amount of detail about an individual that will be matched under the programme:

(f) whether or not the programme will comply with the information matching rules.

Authorised information matching programmes

99 Information matching agreements

(1) No personal information held by any specified agency shall be disclosed, pursuant to an information matching provision, to any other specified agency for the purposes of an authorised information matching programme except pursuant to a written agreement between those agencies.

(2) Every such agreement shall incorporate provisions that reflect the information matching rules, or provisions that are no less onerous than those rules, and the agencies that are parties to the agreement shall comply with those provisions.

(3) Any such agreement may provide that the agencies involved in the information matching programme may charge each other fees for the services provided for the purposes of the programme.

(4) The parties to an agreement entered into pursuant to this section shall ensure that a copy of the agreement, and of any amendments subsequently made to such an agreement, are forwarded to the Commissioner forthwith.

Compare: 1991 No 126 s 14

100 Use of results of information matching programme

(1) Subject to any other enactment or rule of law that limits or restricts the information that may be taken into account in taking adverse action against an individual, any specified agency that is involved in an authorised information matching programme may take adverse action against an individual on the basis of any discrepancy produced by that programme.

(2) Nothing in subsection (1) shall be taken to limit or restrict the use that may lawfully be made, by any specified agency, of any information produced by an authorised information matching programme.

Compare: 1991 No 126 s 15; Data-matching Program (Assistance and Tax) Act 1990 s 10(1) (Aust)

101 Further provisions relating to results of information matching programme

(1) Notwithstanding anything in section 100, where—

(a) a specified agency derives or receives information produced by an authorised information matching programme; and

(b) as a result of deriving or receiving that information, the agency becomes aware of a discrepancy,—

that agency shall destroy that information not later than the expiration of the period of 60 working days after the agency becomes aware of that discrepancy unless, before the expiration of that period, the agency has considered that information and made a decision to take adverse action against any individual on the basis of that discrepancy.

(2) Any adverse action commenced by a specified agency in accordance with subsection (1) shall be commenced not later than 12 months from the date on which the information was derived or received by the agency.

(3) Where a specified agency decides not to take adverse action against any individual on the basis of information produced by an authorised information matching programme, the agency shall as soon as practicable destroy the information.

(4) When information produced by an authorised information matching programme is no longer needed by a specified agency for the purposes of taking any adverse action against any individual, the agency shall as soon as practicable destroy the information.

(5) Nothing in this section applies in relation to the Inland Revenue Department.

Compare: 1991 No 126 s 16; Data-matching Program (Assistance and Tax) Act 1990 s 10(2), (3) (Aust)

102 Extension of time limit

Where a specified agency derives or receives information produced by an authorised information matching programme, the Commissioner may, either generally or in respect of any case or class of cases, extend the time limit set out in section 101 in respect of that information if the Commissioner is satisfied that,—

(a) because of the large quantity of information so derived or received by the agency; or

(b) because of the complexity of the issues involved; or

(c) for any other reason,—

the agency cannot reasonably be required to meet the time limit.

Compare: 1991 No 126 s 17; Data-matching Program (Assistance and Tax) Act 1990 s 10(3) (Aust)

103 Notice of adverse action proposed

(1) Subject to subsections (1A) to (2A) and to section 180C(1) of the Corrections Act 2004, a specified agency shall not take adverse action against any individual on the basis (whether wholly or in part) of a discrepancy produced by an authorised information matching programme—

(a) unless that agency has given that individual written notice—

(i) specifying particulars of the discrepancy and of the adverse action that it proposes to take; and

(ii) stating that the individual has 5 working days from the receipt of the notice in which to show cause why the action should not be taken; and

(b) until the expiration of those 5 working days.

(1A) Nothing in subsection (1) shall prevent the department for the time being responsible for the administration of the Social Security Act 1964 from immediately suspending sole parent support, the supported living payment, an emergency benefit, jobseeker support, a young parent payment, or a youth payment, paid to an individual where the discrepancy arises in respect of departure information supplied to that department pursuant to section 308 of the Customs and Excise Act 2018, and where, before or immediately after the decision to suspend, the department gives the individual written notice—

(a) specifying particulars of the discrepancy and the suspension of benefit, and any other adverse action the department proposes to take; and

(b) stating that the individual has 5 working days from the receipt of the notice to show cause why the benefit ought not to have been suspended or why the adverse action should not be taken, or both—

and the adverse action shall not be taken until the expiration of those 5 working days.

(1B) *[Repealed]*

(1C) Nothing in subsection (1) prevents the Commissioner of Inland Revenue from immediately taking action to recover amounts relating to—

(a) unpaid amounts owed to the Commissioner by an individual who is in serious default identified in information supplied to the Commissioner under section 306 of the Customs and Excise Act 2018; or

(b) financial support under the Child Support Act 1991 owed to the Commissioner by an individual who is identified in information supplied to the Commissioner under section 307 or 313 of the Customs and Excise Act 2018.

(2) Nothing in subsection (1) or subsection (1A) prevents an agency from taking adverse action against an individual if compliance with the requirements of that subsection would prejudice any investigation into the commission of an offence or the possible commission of an offence.

(2A) Nothing in subsection (1) prevents any constable or any bailiff from immediately executing a warrant to arrest an individual in respect of the non-payment of the whole or any part of a fine if the discrepancy arises in respect of arrival and departure information supplied under section 310 of the Customs and Excise Act 2018 and if, before executing the warrant, the individual concerned is—

(a) informed of the intention to execute the warrant; and

(b) given an opportunity to confirm—

(i) whether or not he or she is the individual named in the warrant; and

(ii) that neither of the following circumstances applies:

(A) the fine has been paid:

(B) an arrangement to pay the fine over time has been entered into.

(3) Every notice required to be given to any individual under subsection (1) or subsection (1A) may be given by delivering it to that individual, and may be delivered—

(a) personally; or

(b) by leaving it at that individual's usual or last known place of residence or business or at the address specified by that individual in any application or other document received from that individual; or

(c) by posting it in a letter addressed to that individual at that place of residence or business or at that address.

(4) If any such notice is sent to any individual by post, then in the absence of proof to the contrary, the notice shall be deemed to have been delivered to that individual on the fourth day after the day on which it was posted, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

(5) In this section,—

amount of reparation has the same meaning as in section 79 of the Summary Proceedings Act 1957

bailiff means a bailiff of the District Court or of the High Court

fine means—

(a) a fine within the meaning of section 79 of the Summary Proceedings Act 1957:

(b) a fine to which section 19 of the Crimes Act 1961 applies:

(c) a fine to which section 43 or 45 of the Misuse of Drugs Amendment Act 1978 applies:

(d) *[Repealed]*

(e) any amount payable under section 138A(1) of the Sentencing Act 2002.

Compare: 1991 No 126 s 18; Data-matching Program (Assistance and Tax) Act 1990 s 11 (Aust); 5 USC 552a(p)(3), (4)

Section 103(1): amended, on 9 April 2008, by section 7(2) of the Corrections (Social Assistance) Amendment Act 2008 (2008 No 24).

Section 103(1): amended, on 10 April 2006, by section 4(1) of the Privacy Amendment Act 2006 (2006 No 11).

Section 103(1A): inserted, on 30 June 1993, by section 2(2) of the Privacy Amendment Act 1993 (1993 No 59).

Section 103(1A): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 103(1A): amended, on 15 July 2013, by section 35 of the Social Security (Benefit Categories and Work Focus) Amendment Act 2013 (2013 No 13).

Section 103(1A): amended, on 1 October 1998, by section 11 of the Employment Services and Income Support (Integrated Administration) Act 1998 (1998 No 96).

Section 103(1B): repealed, on 31 August 2017, by section 396(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section 103(1C): replaced, on 30 March 2013, by section 50 of the Student Loan Scheme Amendment Act 2013 (2013 No 10).

Section 103(1C)(a): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 103(1C)(b): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 103(2): amended, on 31 August 2017, by section 396(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section 103(2): amended, on 30 June 1993, by section 2(3)(a) of the Privacy Amendment Act 1993 (1993 No 59).

Section 103(2A): inserted, on 10 April 2006, by section 4(2) of the Privacy Amendment Act 2006 (2006 No 11).

Section 103(2A): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 103(2A): amended, on 1 October 2008, pursuant to section 116(a)(vii) of the Policing Act 2008 (2008 No 72).

Section 103(3): amended, on 31 August 2017, by section 396(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section 103(3): amended, on 30 June 1993, by section 2(3)(b) of the Privacy Amendment Act 1993 (1993 No 59).

Section 103(5): inserted, on 10 April 2006, by section 4(3) of the Privacy Amendment Act 2006 (2006 No 11).

Section 103(5) **amount of reparation**: inserted, on 13 February 2012, by section 4(3) of the Privacy Amendment Act 2011 (2011 No 44).

Section 103(5) **fine**: replaced, on 13 February 2012, by section 4(1) of the Privacy Amendment Act 2011 (2011 No 44).

Section 103(5) **fine** paragraph (d): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 103(5) **reparation**: repealed, on 13 February 2012, by section 4(2) of the Privacy Amendment Act 2011 (2011 No 44).

104 Reporting requirements

(1) Every specified agency that is involved in an authorised information matching programme shall make such reports to the Commissioner in respect of that programme as the Commissioner may from time to time require.

(2) Without limiting the generality of subsection (1), the matters on which the Commissioner may require any agency to submit a report include the following:

(a) the actual costs and benefits of an authorised information matching programme:

(b) any difficulties experienced in the operation of an authorised information matching programme, and how those difficulties are being, or have been, overcome:

(c) whether or not internal audits or other forms of assessment are undertaken by an agency in relation to an authorised information matching programme, and, if so, the results of those audits or assessments:

(d) where an agency dispenses with the giving of notice under section 103, the reasons why such a dispensation is made, and the grounds in support of those reasons:

(e) the details of the operation of an authorised information matching programme, including—

(i) the number of matches undertaken:

(ii) the proportion of matches that revealed discrepancies in information involved in the matching:

(iii) the number of discrepancies so revealed:

(iv) the proportion of cases in which action was taken as a result of such discrepancies:

(v) the number of cases in which such action was taken:

(vi) the number of cases in which such action was taken even though the accuracy of the discrepancy was challenged:

(vii) the proportion of cases in which such action did not proceed after the individual concerned was notified of the discrepancy:

(viii) the number of cases in which action taken as a result of a discrepancy was successful:

(f) such other matters as the Commissioner considers relevant.

Compare: 1991 No 126 s 19; Data-matching Program (Assistance and Tax) Act 1990 Schedule cl 9 (Aust)

105 Information matching programmes to be reported on in annual report

(1) The Commissioner shall include in every annual report of the Commissioner under section 150 of the Crown Entities Act 2004, in relation to each authorised information matching programme that is carried out (in whole or in part) during the year to which the report relates,—

(a) an outline of the programme; and

(b) an assessment of the extent of the programme's compliance, during that year, with—

(i) sections 99 to 103; and

(ii) the information matching rules; and

(c) the details of each extension granted under section 102, the reasons why the extension was granted, and the grounds in support of those reasons; and

(d) the details of each approval given, during that year, under clause 3 of Schedule 4, the reasons why the approval was given, and the grounds in support of those reasons.

(2) Nothing in subsection (1) requires the Commissioner to include in any annual report, in respect of any authorised information matching programme, any information the disclosure of which would be likely to frustrate the objective of the programme.

(3) For the purposes of carrying out any assessment required by subsection (1)(b), Part 9 shall apply, with such modifications as are necessary, as if the assessment were an investigation under Part 8.

Compare: 1991 No 126 s 20; Data-matching Program (Assistance and Tax) Act 1990 Schedule cl 10(1) (Aust)

Section 105(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

106 Review of statutory authorities for information matching

(1) As soon as practicable after 1 January 1994, and then at intervals of not more than 5 years, the Commissioner shall—

(a) review the operation of every information matching provision since—

(i) 19 December 1991 (in the case of the first review carried out under this paragraph); or

(ii) the date of the last review carried out under this paragraph (in the case of every subsequent review); and

(b) consider whether or not, in the Commissioner's opinion,—

(i) the authority conferred by the information matching provision should be continued; and

(ii) any amendments to the provision are necessary or desirable; and

(c) report the Commissioner's findings to the responsible Minister.

(2) As soon as practicable after receiving a report from the Commissioner under subsection (1)(c), the responsible Minister shall lay a copy of that report before the House of Representatives.

Compare: 1991 No 126 s 21

107 Amendment of information matching rules

(1) For the purposes of this Part, the Governor-General may from time to time, by Order in Council, make such amendments to Schedule 4 as the Governor-General thinks fit.

(2) The power conferred by subsection (1) includes the power to repeal Schedule 4 and substitute a new schedule.

(3) No order that amends Schedule 4 shall be made otherwise than in accordance with the recommendations of the Commissioner.

Avoidance of controls on information matching

108 Avoidance of controls on information matching through use of exceptions to information privacy principles

Despite section 97A, if the collection or disclosure of information is authorised by an information matching provision, nothing in subclause (2)(d)(i) of principle 2 or paragraph (e)(i) of principle 11 authorises or permits the collection or disclosure of that information for the purposes of—

(a) any authorised information matching programme; or

(b) any information matching programme the objective of which is similar in nature to any authorised information matching programme.

Section 108: amended, on 22 August 2017, by section 6 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

109 Avoidance of controls on information matching through use of official information statutes

Notwithstanding anything in the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987, no public sector agency shall disclose pursuant to either of those enactments, to any other public sector agency, any personal information if the sole or principal purpose for which that information is sought is for use in an information matching programme.

Part 10A
Identity information

Part 10A: inserted, on 22 August 2017, by section 7 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

109A Purpose of Part

The purpose of this Part is to authorise accessing agencies, when carrying out specified functions, to verify the identity of an individual by accessing identity information held about that individual by a holder agency.

Section 109A: inserted, on 22 August 2017, by section 7 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

109B Relationship between Part 10A and other law relating to information disclosure

This Part does not—

(a) limit the collection, use, or disclosure of personal information that—

(i) is authorised or required by or under any enactment; or

(ii) is permitted by the information privacy principles:

(b) limit Part 9A, 10, or 11.

Section 109B: inserted, on 22 August 2017, by section 7 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

109C Interpretation

In this Part,—

access, in relation to a database, includes remote access to that database

accessing agency means an agency specified in the first column of Schedule 4A

biometric information, in relation to a person, means information that comprises—

(a) 1 or more of the following kinds of personal information:

(i) a photograph of all or any part of the person's head and shoulders:

(ii) impressions of the person's fingerprints:

(iii) a scan of the person's irises; and

(b) an electronic record of the personal information that is capable of being used for biometric matching

database means any information recording system or facility used by an agency to store information

holder agency means an agency specified in the third column of Schedule 4A

identity information, in relation to an individual, means any information that identifies, or relates to the identity of, the individual, and includes (without limitation) the following information:

(a) the individual's biographical details (for example, the individual's name, address, date of birth, place of birth, and gender):

(b) the individual's biometric information:

(c) a photograph or visual image of the individual:

(d) details of the individual's—

(i) New Zealand travel document; or

(ii) certificate of identity:

(e) details of any distinguishing features (including tattoos and birthmarks).

Section 109C: inserted, on 22 August 2017, by section 7 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

109D Access by agencies to identity information

An accessing agency may, for the purpose specified in the second column of Schedule 4A opposite the name of the accessing agency, have access to an individual's identity information held by a holder agency specified in the third column of that schedule opposite the name of the accessing agency.

Section 109D: inserted, on 22 August 2017, by section 7 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

109E Manner and form of access

(1) Access to identity information permitted under section 109D may be facilitated between a holder agency and an accessing agency in the manner agreed by the agencies (for example, by direct access to information stored in a holder agency's database, or by exchange of information between the agencies).

(2) Identity information that is held by a holder agency and accessed by an accessing agency under section 109D may be made available to the accessing agency in the form agreed by the agencies.

Section 109E: inserted, on 22 August 2017, by section 7 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

109F Annual reporting requirement

The chief executive of an accessing agency must include in every annual report prepared by the chief executive for the purposes of section 43 of the Public Finance Act 1989, or any other applicable enactment requiring an annual report to Parliament, details of the operation of this Part and Schedule 4A.

Section 109F: inserted, on 22 August 2017, by section 7 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

109G Amendment of Schedule 4A

(1) The Governor-General may, by Order in Council made on the recommendation of the responsible Minister given after consultation with the Privacy Commissioner,—

(a) add, remove, amend, or replace any item in Schedule 4A; or

(b) repeal Schedule 4A and substitute a new schedule.

(2) Before recommending the making of an Order in Council facilitating access by an accessing agency to identity information held by a holder agency, the responsible Minister must be satisfied that—

(a) the purpose for which the identity information is to be accessed relates to a specified function of the accessing agency; and

(b) the identity information to be accessed is no more than is reasonably necessary to enable the accessing agency to achieve that purpose; and

(c) any potential conflicts or inconsistencies between the sharing of personal information under Schedule 4A and any other enactment have been identified and appropriately addressed.

Section 109G: inserted, on 22 August 2017, by section 7 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

Part 11
Law enforcement information

110 Interpretation

In this Part, unless the context otherwise requires,—

accessing agency means any public sector agency for the time being specified in Schedule 5 as an agency to which law enforcement information held by a holder agency is available

holder agency means any public sector agency for the time being specified in Schedule 5 as an agency the records of which are available to an accessing agency or agencies

law enforcement information means any information that—

(a) is about an identifiable individual; and

(b) is specified in Schedule 5

local authority means a local authority or public body named or specified in Schedule 1 or Schedule 2 of the Local Government Official Information and Meetings Act 1987.

110A Relationship between Part 11 and other law relating to information disclosure

This Part does not—

(a) limit the collection, use, or disclosure of personal information that—

(i) is authorised or required by or under any enactment; or

(ii) is permitted by the information privacy principles:

(b) limit Part 9A, 10, or 10A.

Section 110A: inserted, on 22 August 2017, by section 8 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

111 Access by accessing agencies to law enforcement information

An accessing agency may have access to law enforcement information held by a holder agency if such access is authorised by the provisions of Schedule 5.

112 Local authorities may be authorised to have access to law enforcement information

(1) The responsible Minister may from time to time, by notice in the *Gazette*, authorise any local authority to have access to law enforcement information held by a holder agency, where access to that information by a local authority is permitted by the provisions of Schedule 5.

(2) Any authority may be granted under subsection (1) subject to such terms and conditions as the responsible Minister thinks fit and specifies in the notice.

(3) Any notice under subsection (1) may be in like manner amended or revoked at any time.

(4) Any notice given under section 4E of the Wanganui Computer Centre Act 1976 and in force immediately before the commencement of this section shall be deemed to have been given under this section.

Compare: 1976 No 19 s 4E; 1989 No 5 s 3

113 Amendment of Schedule 5

[Expired]

Section 113: expired, on 1 July 1997, by section 114.

114 Expiry of power to amend Schedule 5 by Order in Council

Section 113 shall expire on 1 July 1997, but the expiration of that section shall not affect the validity of any Order in Council that has been made under that section and that is in force immediately before that date.

Section 114: amended, on 3 September 1996, by section 6(2) of the Privacy Amendment Act 1996 (1996 No 142).

Part 11A
Transfer of personal information outside New Zealand

Part 11A: inserted, on 8 September 2010, by section 8 of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

114A Interpretation

In this Part, unless the context otherwise requires,—

OECD Guidelines means the Organisation for Economic Co-operation and Development Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data

State includes any State, territory, province, or other part of a country

transfer prohibition notice means a notice given under section 114B prohibiting the transfer of personal information from New Zealand to another State.

Section 114A: inserted, on 8 September 2010, by section 8 of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

114B Prohibition on transfer of personal information outside New Zealand

(1) The Commissioner may prohibit a transfer of personal information from New Zealand to another State if the Commissioner is satisfied, on reasonable grounds, that—

(a) the information has been, or will be, received in New Zealand from another State and is likely to be transferred to a third State where it will not be subject to a law providing comparable safeguards to this Act; and

(b) the transfer would be likely to lead to a contravention of the basic principles of national application set out in Part Two of the OECD Guidelines and set out in Schedule 5A.

(2) In determining whether to prohibit a transfer of personal information, the Commissioner must also consider, in addition to the matters set out in subsection (1) and section 14, the following:

(a) whether the transfer affects, or would be likely to affect, any individual; and

(b) the general desirability of facilitating the free flow of information between New Zealand and other States; and

(c) any existing or developing international guidelines relevant to transborder data flows, including (but not limited to)—

(i) the OECD Guidelines:

(ii) the European Union Directive 95/46/EC on the Protection of Individuals with Regard to the Processing of Personal Data and on the Free Movement of Such Data.

(3) Subsection (1) does not apply if the transfer of the information, or the information itself, is—

(a) required or authorised by or under any enactment; or

(b) required by any convention or other instrument imposing international obligations on New Zealand.

Section 114B: inserted, on 8 September 2010, by section 8 of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

114C Commissioner's power to obtain information

(1) To enable the Commissioner to determine whether to prohibit a transfer of personal information, the Commissioner may hear or obtain information from such persons as the Commissioner considers necessary, and for this purpose Part 9 applies as if the Commissioner were carrying out an inquiry under section 13(1)(m).

(2) In exercising his or her powers under subsection (1), the Commissioner may regulate his or her procedure in such manner as the Commissioner thinks fit.

Section 114C: inserted, on 8 September 2010, by section 8 of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

114D Transfer prohibition notice

(1) A prohibition under section 114B(1) is to be effected by the service of a transfer prohibition notice on the agency proposing to transfer the personal information concerned.

(2) A transfer prohibition notice must—

(a) state the name of the agency to whom it relates; and

(b) describe the personal information concerned; and

(c) state that the transfer of the personal information concerned from New Zealand to a specified State is prohibited either—

(i) absolutely; or

(ii) until the agency has taken the steps stated in the notice to protect the interests of any individual or individuals affected by the transfer; and

(d) state the time when the notice takes effect; and

(e) state the ground for the prohibition; and

(f) state that the agency on whom the notice is served may lodge an appeal against the notice to the Human Rights Review Tribunal, and the time within which the appeal must be lodged.

(3) The time when the notice takes effect under subsection (2)(d) must not be before the end of the period within which an appeal against the notice can be lodged.

(4) If an appeal is brought, the notice does not take effect pending the determination or withdrawal of the appeal.

(5) If the Commissioner, by reason of special circumstances, considers that the prohibition should take effect as a matter of urgency in relation to all or any part of the notice,—

(a) subsections (3) and (4) do not apply; and

(b) the notice takes effect on the sixth working day after the date on which the notice is served; and

(c) the notice must include—

(i) a statement that the Commissioner considers that the prohibition must take effect as a matter of urgency; and

(ii) a statement of the reasons why the Commissioner has reached that conclusion.

Compare: Data Protection Act 1988 s 11 (Ire)

Section 114D: inserted, on 8 September 2010, by section 8 of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

114E Commissioner may vary or cancel notice

(1) If, at any time, the Commissioner considers that all or any of the provisions of a transfer prohibition notice served on an agency need not be complied with in order to avoid a contravention of basic principles of privacy or data protection, the Commissioner may vary or cancel the transfer prohibition notice by serving notice to that effect on the agency concerned.

(2) An agency on whom a transfer prohibition notice has been served may, at any time after the end of the period during which an appeal under section 114G(1)(a) can be lodged, apply in writing to the Commissioner for the notice to be varied or cancelled under subsection (1).

(3) The Commissioner must, within 20 working days after the date on which an application under subsection (2) is received, notify the agency of—

(a) his or her decision; and

(b) his or her reasons, if the application is refused.

(4) If the Commissioner exercises his or her discretion under subsection (1), the variation or cancellation of the transfer prohibition notice takes effect on the day after the date on which notice of the Commissioner's decision to vary or cancel the transfer prohibition notice is served.

Compare: Data Protection Act 1998 s 41 (UK)

Section 114E: inserted, on 8 September 2010, by section 8 of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

114F Offence in relation to transfer prohibition notice

Every person who, without reasonable excuse, fails or refuses to comply with a transfer prohibition notice commits an offence and is liable on conviction to a fine not exceeding $10,000.

Section 114F: inserted, on 8 September 2010, by section 8 of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

Section 114F: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

114G Appeals against transfer prohibition notice

(1) An agency on whom a transfer prohibition notice is served may appeal to the Human Rights Review Tribunal—

(a) against the whole or any part of the notice; or

(b) if the notice contains a statement by the Commissioner in accordance with section 114D(5)(c), against the decision to include that statement in respect of all or any part of the notice; or

(c) against the decision of the Commissioner to vary the notice in accordance with section 114E(1); or

(d) against the refusal of an application under section 114E(2) to vary or cancel the notice.

(2) An appeal under subsection (1) must be lodged,—

(a) in the case of an appeal under subsection (1)(a) or (b), within 15 working days from the date on which the transfer prohibition notice was served on the agency concerned:

(b) in the case of an appeal under subsection (1)(c) or (d), within 15 working days from the date on which notice of the decision or refusal was served on the agency concerned.

(3) The Tribunal must allow an appeal or substitute any other decision or notice that could have been made or served by the Commissioner if it considers that—

(a) the decision or notice against which the appeal is brought is not in accordance with the law; or

(b) to the extent that the decision or notice involved an exercise of discretion by the Commissioner, the Commissioner ought to have exercised his or her discretion differently.

(4) The Tribunal may review any determination of fact on which the decision or notice in question was based.

(5) On any appeal under subsection (1)(b), the Tribunal may—

(a) direct—

(i) that the notice in question must have effect as if it did not contain the statement that is mentioned in the notice; or

(ii) that the inclusion of the statement must not have effect in relation to any part of the notice; and

(b) make any modifications required to give effect to that direction.

Compare: Data Protection Act 1998 ss 48, 49 (UK)

Section 114G: inserted, on 8 September 2010, by section 8 of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

114H Application of Human Rights Act 1993

Section 87 and Part 4 of the Human Rights Act 1993 apply, with all necessary modifications (if any), in relation to proceedings under section 114G as if they were proceedings under that Act.

Section 114H: inserted, on 8 September 2010, by section 8 of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

Part 12
Miscellaneous provisions

General

115 Protection against certain actions

(1) Where any personal information is made available in good faith pursuant to principle 6,—

(a) no proceedings, civil or criminal, shall lie against the Crown or any other person in respect of the making available of that information, or for any

consequences that follow from the making available of that information; and

(b) no proceedings, civil or criminal, in respect of any publication involved in, or resulting from, the making available of that information shall lie against the author of the information or any other person by reason of that author or other person having supplied the information to an agency.

(2) The making available of, or the giving of access to, any personal information in consequence of a request made under principle 6 shall not be taken, for the purposes of the law relating to defamation or breach of confidence or infringement of copyright, to constitute an authorisation or approval of the publication of the document or of its contents by the individual to whom the information is made available or the access is given.

Compare: 1982 No 156 s 48; 1987 No 8 s 21; 1987 No 174 s 41

116 Commissioner and staff to maintain secrecy

(1) Every person to whom section 96 applies shall maintain secrecy in respect of all matters that come to that person's knowledge in the exercise of that person's functions under this Act.

(2) Notwithstanding anything in subsection (1), the Commissioner may disclose such matters as in the Commissioner's opinion ought to be disclosed for the purposes of giving effect to this Act.

(3) Except where it is necessary to do so for the purposes of referring a matter to the Director of Human Rights Proceedings pursuant to section 77(2), the power conferred by subsection (2) of this section shall not extend to—

(a) any matter that might prejudice—

(i) the security, defence, or international relations of New Zealand (including New Zealand's relations with the Government of any other country or with any international organisation); or

(ii) any interest protected by section 7 of the Official Information Act 1982; or

(iii) the prevention, investigation, or detection of offences; or

(b) any matter that might involve the disclosure of the deliberations of Cabinet; or

(c) any information, answer, document, or thing obtained by the Commissioner by reason only of compliance with a requirement made pursuant to section 95(1).

Compare: 1975 No 9 s 21(2), (4), (5); 1987 No 8 s 24(2); 1991 No 126 s 30

Section 116(3): amended, on 22 October 2003, by section 6 of the Privacy Amendment Act 2003 (2003 No 94).

117 Consultation with Ombudsmen

Notwithstanding anything in section 116, the Commissioner may from time to time undertake consultation with an Ombudsman in relation to any matter relating to the functions of the Commissioner under this Act, including (without limitation) consultation—

(a) for the purposes of making a determination under section 72:

(b) in relation to any matter arising out of or in the course of an investigation under Part 8:

(c) in relation to any matter relating to privacy, whether or not the matter arises out of a particular complaint made under Part 8,—

and, for the purposes of any such consultation, the Commissioner may disclose to an Ombudsman such information as the Commissioner considers necessary for that purpose.

Section 117: amended, on 21 October 1994, by section 81(2) of the Health and Disability Commissioner Act 1994 (1994 No 88).

117A Consultation with Health and Disability Commissioner

Notwithstanding anything in section 116, the Commissioner may from time to time undertake consultation with the Health and Disability Commissioner under the Health and Disability Commissioner Act 1994 in relation to any matter relating to the functions of the Commissioner under this Act, including (without limitation) consultation—

(a) for the purposes of making a determination under section 72A:

(b) in relation to any matter arising out of or in the course of an investigation under Part 8:

(c) in relation to any matter that is within the jurisdiction of the Health and Disability Commissioner, whether or not the matter arises out of a particular complaint made under Part 8,—

and, for the purposes of any such consultation, the Commissioner may disclose to the Health and Disability Commissioner such information as the Commissioner considers necessary for that purpose.

Section 117A: inserted, on 1 July 1996, by section 81(3) of the Health and Disability Commissioner Act 1994 (1994 No 88).

117B Consultation with Inspector-General of Intelligence and Security

Notwithstanding anything in section 116, the Commissioner may from time to time undertake consultation with the Inspector-General of Intelligence and Security in relation to any matter relating to the functions of the Commissioner under this Act, including (without limitation) consultation—

(a) for the purposes of making a determination under section 72B:

(b) in relation to any matter arising out of or in the course of an investigation under Part 8:

(c) in relation to any matter that is within the jurisdiction of the Inspector-General of Intelligence and Security, whether or not the matter arises out of a particular complaint made under Part 8,—

and, for the purposes of any such consultation, the Commissioner may disclose to the Inspector-General of Intelligence and Security such information as the Commissioner considers necessary for that purpose.

Section 117B: inserted, on 2 July 1996, by section 33 of the Inspector-General of Intelligence and Security Act 1996 (1996 No 47).

Section 117B: amended, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

118 Corrupt use of official information

[Repealed]

Section 118: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

119 Exclusion of public interest immunity

(1) Subject to subsection (2), the rule of law which authorises or requires the withholding of any document, or the refusal to answer any question, on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest shall not apply in respect of—

(a) any investigation by or proceedings before the Commissioner or the Tribunal under this Act; or

(b) any application under section 8 of the Judicial Review Procedure Act 2016 for the review of any decision under this Act;—

but not so as to give any party any information that he or she would not, apart from this section, be entitled to.

(2) Nothing in subsection (1) affects section 32.

Compare: 1982 No 156 s 11; 1987 No 174 s 9; 1991 No 126 s 28

Section 119(1)(b): amended, on 1 March 2017, by section 24 of the Judicial Review Procedure Act 2016 (2016 No 50).

120 Adverse comment

The Commissioner shall not, in any report or statement made pursuant to this Act or the Crown Entities Act 2004, make any comment that is adverse to any person unless that person has been given an opportunity to be heard.

Compare: 1977 No 49 s 78(2); 1991 No 126 s 32

Section 120: amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Delegations

121 Delegation of functions or powers of Commissioner

[Repealed]

Section 121: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

122 Delegate to produce evidence of authority

[Repealed]

Section 122: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

123 Revocation of delegations

[Repealed]

Section 123: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

124 Delegation of powers by local authority

(1) A local authority may from time to time, either generally or particularly, delegate to any officer or employee of the local authority all or any of the powers of the local authority under this Act.

(2) Subject to any general or special directions given or conditions attached by the local authority, the officer or employee to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on that officer or employee directly by this section and not by delegation.

(3) Until a delegation made under this section is revoked, it shall continue in force according to its tenor.

(4) Where a person purports to act pursuant to a delegation made under this section, that person shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(5) Any delegation under this section may be made to a specified officer or employee, or may be made to the holder for the time being of a specified office.

(6) Every delegation made under this section shall be revocable at will and no such delegation shall prevent the exercise of any power by the local authority.

Compare: 1974 No 66 s 715; 1979 No 59 s 2; 1987 No 174 s 42

125 Delegation of powers by officers of local authority

(1) Any officer or employee of a local authority may from time to time, by writing under that officer's or employee's hand, either generally or particularly, delegate to any other officer or employee of the local authority all or any of the

powers exercisable by the first-mentioned officer or employee under this Act, except—

(a) the power to delegate under this section; and

(b) any power delegated to that officer or employee by a local authority pursuant to section 124, unless that delegation authorises that officer or employee to delegate that power to other officers or employees pursuant to this section.

(2) Subject to any general or special directions given or conditions attached by the officer or employee making the delegation, the officer or employee to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on that officer or employee directly by this section and not by delegation.

(3) Until a delegation made under this section is revoked, it shall continue in force according to its tenor; and, in the event of the officer or employee by whom any such delegation has been made ceasing to hold office, the delegation shall continue to have effect as if made by the person for the time being holding the office of the officer or employee making the delegation.

(4) Any delegation under this section may be made to a specified officer or employee, or may be made to the holder for the time being of any specified office.

(5) Where any officer or employee purports to act pursuant to a delegation made under this section, that officer or employee shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(6) Every delegation made under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the officer or employee making the delegation.

Compare: 1974 No 66 s 716; 1979 No 59 s 2; 1987 No 174 s 43

Liability and offences

126 Liability of employer and principals

(1) Subject to subsection (4), anything done or omitted by a person as the employee of another person shall, for the purposes of this Act, be treated as done or omitted by that other person as well as by the first-mentioned person, whether or not it was done with that other person's knowledge or approval.

(2) Anything done or omitted by a person as the agent of another person shall, for the purposes of this Act, be treated as done or omitted by that other person as well as by the first-mentioned person, unless it is done or omitted without that other person's express or implied authority, precedent or subsequent.

(3) Anything done or omitted by a person as a member of any agency shall, for the purposes of this Act, be treated as done or omitted by that agency as well as by

the first-mentioned person, unless it is done or omitted without that agency's express or implied authority, precedent or subsequent.

(4) In proceedings under this Act against any person in respect of an act alleged to have been done by an employee of that person, it shall be a defence for that person to prove that he or she or it took such steps as were reasonably practicable to prevent the employee from doing that act, or from doing as an employee of that person acts of that description.

Compare: 1977 No 49 s 33

127 Offences

Every person commits an offence against this Act and is liable on conviction to a fine not exceeding $2,000 who,—

(a) without reasonable excuse, obstructs, hinders, or resists the Commissioner or any other person in the exercise of their powers under this Act:

(b) without reasonable excuse, refuses or fails to comply with any lawful requirement of the Commissioner or any other person under this Act:

(c) makes any statement or gives any information to the Commissioner or any other person exercising powers under this Act, knowing that the statement or information is false or misleading:

(d) represents directly or indirectly that he or she holds any authority under this Act when he or she does not hold that authority.

Compare: 1975 No 9 s 30; 1991 No 126 s 35

Section 127: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Regulations

128 Regulations

The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) providing the procedure for the service of notices and documents under this Act:

(aa) prescribing the matters that the Commissioner may specify to a lead agency as matters that are to be included in a report by the lead agency under section 96S(1)(b):

(b) providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

Section 128(aa): inserted, on 27 February 2013, by section 9 of the Privacy Amendment Act 2013 (2013 No 1).

128A Power to amend Schedule 5A

The Governor-General may, by Order in Council,—

(a) amend Schedule 5A by making such amendments to the text of the basic principles of national application set out in that schedule as are required to bring that text up to date:

(b) repeal Schedule 5A, and substitute a new schedule setting out, in an up-to-date form, the text of the basic principles of national application.

Section 128A: inserted, on 8 September 2010, by section 9 of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

Amendments, repeals, and revocations

129 Amendments, repeals, and revocations

(1) The enactments specified in Schedule 6 are hereby amended in the manner indicated in that schedule.

(2) The enactments specified in Schedule 7 are hereby repealed.

(3) The orders specified in Schedule 8 are hereby revoked.

129A Amendment relating to Legislation Act 2012

Section 129B takes effect on the repeal of the Acts and Regulations Publication Act 1989 and the Regulations (Disallowance) Act 1989.

Section 129A: inserted, on 27 February 2013, by section 10 of the Privacy Amendment Act 2013 (2013 No 1).

129B New section 96M substituted

Amendment(s) incorporated in the Act(s).

Section 129B: inserted, on 27 February 2013, by section 10 of the Privacy Amendment Act 2013 (2013 No 1).

Transitional provisions and savings

130 Final report of Wanganui Computer Centre Privacy Commissioner

(1) As soon as reasonably practicable after 1 July 1993, the State Services Commissioner shall arrange for a final report of the Wanganui Computer Centre Privacy Commissioner to be sent to the Minister of State Services showing the Wanganui Computer Centre Privacy Commissioner's operations for the financial period ending with the close of 30 June 1993, and shall attach to the report a copy of the Wanganui Computer Centre Privacy Commissioner's accounts for that period certified by the Auditor-General.

(2) A copy of the report and accounts shall be laid before the House of Representatives as soon as practicable after their receipt by the Minister of State Services.

Section 130(1): amended, on 1 July 2001, pursuant to section 52 of the Public Audit Act 2001 (2001 No 10).

131 Privacy Commissioner to complete work in progress of Wanganui Computer Centre Privacy Commissioner

Where—

(a) any request made under section 14(1) of the Wanganui Computer Centre Act 1976; or

(b) any complaint made under section 15 of that Act—

is pending at the commencement of this section, then, notwithstanding the repeal of that Act by section 129(2) of this Act,—

(c) the Commissioner may deal with that request or, as the case requires, that complaint as if the Commissioner were the Wanganui Computer Centre Privacy Commissioner under that Act; and

(d) that Act shall continue and be in force for that purpose.

132 Savings

For the avoidance of doubt, and without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal, by section 129(2) of this Act, of the Wanganui Computer Centre Act 1976 shall not affect—

(a) the continued existence of the Wanganui Computer Centre continued by section 3(1) of that Act; or

(b) the computer system established in connection with that computer centre; or

(c) any agreements or arrangements entered into by the Minister of State Services pursuant to section 3A of that Act.

133 Transitional provision

The person who, immediately before the commencement of this section, was holding office as the Privacy Commissioner under the Privacy Commissioner Act 1991 shall, without further appointment, be deemed as from the commencement of this section for all purposes to have been appointed as the Privacy Commissioner under this Act, and that person's instrument of appointment shall be construed accordingly.

Schedule 1
Provisions applying in respect of Commissioner

s 25

1 Employment of experts

[Repealed]

Schedule 1 clause 1: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

2 Staff

[Repealed]

Schedule 1 clause 2: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

3 Salaries and allowances

[Repealed]

Schedule 1 clause 3: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

4 Superannuation or retiring allowances

(1) For the purpose of providing superannuation or retiring allowances for the Commissioner or Deputy Commissioner, the Commissioner may, out of the funds of the Commissioner, make payments to or subsidise any retirement scheme (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013).

(2) Notwithstanding anything in this Act, any person who, immediately before being appointed as the Commissioner or the Deputy Commissioner or, as the case may be, becoming an employee of the Commissioner, is a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 shall be deemed to be, for the purposes of the Government Superannuation Fund Act 1956, employed in the Government service so long as that person continues to hold office as the Commissioner or the Deputy Commissioner or, as the case may be, to be an employee of the Commissioner; and that Act shall apply to that person in all respects as if that person's service as the Commissioner or the Deputy Commissioner or, as the case may be, as such an employee were Government service.

(3) Subject to the Government Superannuation Fund Act 1956, nothing in subclause (2) entitles any such person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.

(4) For the purpose of applying the Government Superannuation Fund Act 1956, in accordance with subclause (2), to a person who holds office as the Commissioner or the Deputy Commissioner or, as the case may be, is in the service of the Commissioner as an employee and (in any such case) is a contributor to the

Government Superannuation Fund, the term **controlling authority**, in relation to any such person, means the Commissioner.

Schedule 1 clause 4(1): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Schedule 1 clause 4(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

5 Application of certain Acts to Commissioner and staff

[Repealed]

Schedule 1 clause 5: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

6 Services for Commissioner

[Repealed]

Schedule 1 clause 6: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

7 Funds of Commissioner

[Repealed]

Schedule 1 clause 7: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

8 Bank accounts

[Repealed]

Schedule 1 clause 8: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

9 Investment of money

[Repealed]

Schedule 1 clause 9: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

10 Commissioner not to borrow without consent of Minister of Finance

[Repealed]

Schedule 1 clause 10: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

10A Auditor-General to be auditor of Commissioner

[Repealed]

Schedule 1 clause 10A: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

11 Seal

[Repealed]

Schedule 1 clause 11: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

12 Exemption from income tax

The income of the Commissioner shall be exempt from income tax.

Schedule 2
Public registers

ss 58, 65

Part 1
Public register provisions

Enactment	Public register provision
Agricultural Compounds and Veterinary Medicines Act 1997	Section 44ZH
Animal Products Act 1999	Sections 18, 52, 73, and 112S
Arts Council of New Zealand Toi Aotearoa Act 2014	Section 12
Auditor Regulation Act 2011	Section 38
Births, Deaths, Marriages, and Relationships Registration Act 1995	Sections 5, 7(2), 8, 21B, 24, 25, 34, 36, 48(3), 50, 53, 56, 58, 62A, and 62C
Building Act 2004	Sections 216, 273, and 298
Building Societies Act 1965	Section 121A
Chartered Professional Engineers of New Zealand Act 2002	Sections 16 to 19
Civil Union Act 2004	Section 29
Climate Change Response Act 2002	Sections 18, 20, 26, 27, and 28
Companies Act 1993	Sections 87, 88, 189, and 360
Deeds Registration Act 1908	Sections 21, 22, and 30
Designs Act 1953	Sections 25 and 27
Dog Control Act 1996	Section 34
Electoral Act 1993	Sections 100, 101, 103, 104, 105, 106, 107, 108, 109, 204V, 205R, 206Q, 206ZH, 209E, and 210F
Electoral Referendum Act 2010	Sections 50 and 65
Electricity Act 1992	Section 124
Financial Markets Conduct Act 2013	Section 215 and clauses 1 and 4 of Schedule 2
Financial Reporting Act 2013	Section 36N
Financial Service Providers (Registration and Dispute Resolution) Act 2008	Section 24
Fisheries Act 1996	Sections 98 and 124
Food Act 2014	Clauses 2, 5, 8, 11, and 14 of Schedule 5
Friendly Societies and Credit Unions Act 1982	Sections 5, 40, and 130
Gambling Act 2003	Section 204
Health and Safety in Employment Act 1992	Section 19ZZB

Enactment	Public register provision
Health Practitioners Competence Assurance Act 2003	Section 137
Immigration Advisers Licensing Act 2007	Section 77
Incorporated Societies Act 1908	Section 33
Industrial and Provident Societies Act 1908	Section 3D
Insolvency Act 2006	Sections 62, 354, and 368
Insurance (Prudential Supervision) Act 2010	Section 226
Land Transfer Act 2017	Section 9
Land Transport Act 1998	Sections 199 and 234
Limited Partnerships Act 2008	Section 54
Local Electoral Act 2001	Sections 38 and 109
Local Government (Rating) Act 2002	Section 27
Marriage Act 1955	Section 7
Motor Vehicle Sales Act 2003	Sections 52 and 73
Patents Act 2013	Section 194
Personal Property Securities Act 1999	Sections 139 and 171 to 174
Plumbers, Gasfitters, and Drainlayers Act 2006	Section 70
Private Security Personnel and Private Investigators Act 2010	Section 97
Radiocommunications Act 1989	Sections 5, 6, and 28
Rating Valuations Act 1998	Section 7
Real Estate Agents Act 2008	Sections 63 to 70
Registered Architects Act 2005	Sections 18 to 23
Sale of Liquor Act 1989	Sections 220 and 221
Secondhand Dealers and Pawnbrokers Act 2004	Section 78
Social Workers Registration Act 2003	Part 7
Te Ture Whenua Maori Act 1993	Section 263
Trade Marks Act 2002	Section 181
Veterinarians Act 2005	Section 22
Wine Act 2003	Sections 17, 47, and 82S

Schedule 2 Part 1: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Schedule 2 Part 1: amended, on 24 February 2017, by section 8 of the Patents (Trans-Tasman Patent Attorneys and Other Matters) Amendment Act 2016 (2016 No 89).

Schedule 2 Part 1: amended, on 1 March 2016, by section 447 of the Food Act 2014 (2014 No 32).

Schedule 2 Part 1: amended, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

Schedule 2 Part 1: amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Schedule 2 Part 1: amended, on 13 September 2014, by section 249 of the Patents Act 2013 (2013 No 68).

Schedule 2 Part 1: amended, on 30 April 2014, by section 27 of the Arts Council of New Zealand Toi Aotearoa Act 2014 (2014 No 1).

Schedule 2 Part 1: amended, on 16 December 2013, by section 26 of the Health and Safety in Employment Amendment Act 2013 (2013 No 95).

Schedule 2 Part 1: amended, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Schedule 2 Part 1: amended, on 31 August 2012, by section 17 of the Wine Amendment Act 2012 (2012 No 70).

Schedule 2 Part 1: amended, on 31 August 2012, by section 19 of the Animal Products Amendment Act 2012 (2012 No 59).

Schedule 2 Part 1: amended, on 31 August 2012, by section 21 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2012 (2012 No 58).

Schedule 2 Part 1: amended, on 1 July 2012, by section 82 of the Auditor Regulation Act 2011 (2011 No 21).

Schedule 2 Part 1: amended, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Schedule 2 Part 1: amended, on 1 April 2011, by section 121(1) of the Private Security Personnel and Private Investigators Act 2010 (2010 No 115).

Schedule 2 Part 1: amended, on 1 February 2011, by section 241(2) of the Insurance (Prudential Supervision) Act 2010 (2010 No 111).

Schedule 2 Part 1: amended, on 1 January 2011, by section 81(2) of the Electoral Referendum Act 2010 (2010 No 139).

Schedule 2 Part 1: amended, on 1 January 2011, by section 40(2) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Schedule 2 Part 1: amended, on 1 April 2010, by section 185 of the Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74).

Schedule 2 Part 1: amended, on 1 April 2010, by section 43 of the Electricity Amendment Act 2006 (2006 No 70).

Schedule 2 Part 1: amended, on 17 November 2009, by section 21(2) of the Insolvency Amendment Act 2009 (2009 No 52).

Schedule 2 Part 1: amended, on 16 November 2009, by section 173 of the Real Estate Agents Act 2008 (2008 No 66).

Schedule 2 Part 1: amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Schedule 2 Part 1: amended, on 30 September 2008, by section 81 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008 (2008 No 97).

Schedule 2 Part 1: amended, on 4 May 2008, by section 96 of the Immigration Advisers Licensing Act 2007 (2007 No 15).

Schedule 2 Part 1: amended, on 2 May 2008, by section 120 of the Limited Partnerships Act 2008 (2008 No 1).

Schedule 2 Part 1: amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Schedule 2 Part 1: amended, on 20 September 2007, by section 8(2) of the Building Societies Amendment Act 2007 (2007 No 43).

Schedule 2 Part 1: amended, on 14 November 2006, by section 33 of the Climate Change Response Amendment Act 2006 (2006 No 59).

Schedule 2 Part 1: amended, on 22 December 2005, by section 102 of the Veterinarians Act 2005 (2005 No 126).

Schedule 2 Part 1: amended, on 1 July 2005, by section 83 of the Registered Architects Act 2005 (2005 No 38).

Schedule 2 Part 1: amended, on 26 April 2005, by section 46 of the Civil Union Act 2004 (2004 No 102).

Schedule 2 Part 1: amended, on 1 April 2005, by section 89 of the Secondhand Dealers and Pawnbrokers Act 2004 (2004 No 70).

Schedule 2 Part 1: amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Schedule 2 Part 1: amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Schedule 2 Part 1: amended, on 1 July 2004, by section 374 of the Gambling Act 2003 (2003 No 51).

Schedule 2 Part 1: amended, on 1 January 2004, by section 126 of the Wine Act 2003 (2003 No 114).

Schedule 2 Part 1: amended, on 15 December 2003, by section 145 of the Motor Vehicle Sales Act 2003 (2003 No 12).

Schedule 2 Part 1: amended, on 1 November 2003, by section 149 of the Social Workers Registration Act 2003 (2003 No 17).

Schedule 2 Part 1: amended, on 20 August 2003, by section 201 of the Trade Marks Act 2002 (2002 No 49).

Schedule 2 Part 1: amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Schedule 2 Part 1: amended, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Schedule 2 Part 1: amended, on 1 January 2003, by section 72 of the Chartered Professional Engineers of New Zealand Act 2002 (2002 No 17).

Schedule 2 Part 1: amended, on 26 August 2002, pursuant to regulation 44 of the Land Transfer Regulations 2002 (SR 2002/213).

Schedule 2 Part 1: amended, on 1 May 2002, by section 191(1) of the Personal Property Securities Act 1999 (1999 No 126).

Schedule 2 Part 1: amended, on 12 October 2001, by section 61 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Schedule 2 Part 1: amended, on 1 October 2001, by section 316(1) of the Fisheries Act 1996 (1996 No 88).

Schedule 2 Part 1: amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

Schedule 2 Part 1: amended, on 1 November 1999, by section 8(1) of the Animal Products (Ancillary and Transitional Provisions) Act 1999 (1999 No 94).

Schedule 2 Part 1: amended, on 1 September 1999, by section 125 of the Sale of Liquor Amendment Act 1999 (1999 No 92).

Schedule 2 Part 1: amended, on 1 March 1999, by section 215(1) of the Land Transport Act 1998 (1998 No 110).

Schedule 2 Part 1: amended, on 1 July 1998, by section 54(1) of the Rating Valuations Act 1998 (1998 No 69).

Schedule 2 Part 1: amended, on 3 September 1996, by section 7 of the Privacy Amendment Act 1996 (1996 No 142).

Schedule 2 Part 1: amended, on 1 July 1996, by section 79 of the Dog Control Act 1996 (1996 No 13).

Schedule 2 Part 1: amended, on 6 December 1995, by section 96 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Schedule 2 Part 1: amended, on 1 September 1995, by section 95 of the Births, Deaths, and Marriages Registration Act 1995 (1995 No 16).

Part 2
Documents deemed to be public registers

Documents held by local authorities and containing authorities for the carrying out of any work for or in connection with the construction, alteration, demolition, or removal of a building, where the authority was granted under any bylaw made under the authority of section 684(1)(22) of the Local Government Act 1974 or any equivalent provision of any former enactment.

Schedule 2A
Approved information sharing agreements

ss 96L(3), 96Z

Schedule 2A: inserted, on 3 October 2013, by section 11 of the Privacy Amendment Act 2013 (2013 No 1).

Name of agreement	Public service(s) to be facilitated by agreement	Internet address where copy of agreement can be accessed	Lead agency for agreement	Description of personal information or type of personal information to be shared under agreement
Supply of adult passport information for the purpose of locating overseas based student loan borrowers and child support liable parents living overseas who are in default of their repayment or contact obligations: Information Sharing Agreement made on 6 June 2014	(a) Inland Revenue collecting student loan debt (including core assessment, penalties, and interest): (b) Inland Revenue collecting child support liable parent debt (including core assessments and penalties): (c) Inland Revenue advising overseas-based borrowers of their student loan obligations and entitlements, and requiring compliance with those obligations: (d) Inland Revenue advising liable parents living overseas of their child support payment obligations and entitlements, and requiring compliance with those obligations.	http://www.ird.govt.nz	Inland Revenue	(a) first name(s): (b) surname: (c) date of birth: (d) passport number: (e) personal telephone number: (f) work telephone number: (g) mobile telephone number: (h) home address: (i) passport delivery address: (j) email address.
Information sharing agreement made between Inland Revenue and the New Zealand Police on 2 July 2014 entitled 'Information Sharing Agreement Between Inland Revenue and New Zealand Police relating to disclosure of personal information to New Zealand Police for the	The maintenance of public safety. Law enforcement and crime prevention, in particular, the prevention, detection, and investigation of serious crime and the provision of evidence of serious crime.	http://www.ird.govt.nz	Inland Revenue	(a) tax information: (b) financial transaction information: (c) financial relationship information: (d) domestic relationship information: (e) information about assets: (f) employment information: (g) person records: (h) social assistance information:

Name of agreement	Public service(s) to be facilitated by agreement	Internet address where copy of agreement can be accessed	Lead agency for agreement	Description of personal information or type of personal information to be shared under agreement
purpose of prevention, detection, investigation or providing evidence of serious crime pursuant to Part 9A of the Privacy Act 1993 and section 81A of the Tax Administration Act 1994, July 2014, as amended 16 March 2015'				(i) personal information about an identifiable individual's associates. (j) any other personal information Inland Revenue identifies in the course of performing its usual functions and duties.
Approved Information Sharing Agreement for Improving Public Services for Vulnerable Children dated 25 June 2015	Improving the well-being of vulnerable children	http://www.msd.govt.nz http://childrensactionplan.govt.nz	Ministry of Social Development	(a) the name and address of a child, and the names, and address or addresses, of the child's parents and caregivers: (b) a child's date of birth: (c) a notification or an alert from a health practitioner that a child or the child's family is at risk: (d) any history of harm to a child or history of harm to a child in the child's family: (e) information about a child's physical or mental health that may indicate that the child has been abused or neglected or is at risk of abuse or neglect: (f) information about a child's current and previous well-

Name of agreement	Public service(s) to be facilitated by agreement	Internet address where copy of agreement can be accessed	Lead agency for agreement	Description of personal information or type of personal information to be shared under agreement
				being, including financial circumstances, and issues of concern about the child's well-being, including financial circumstances:
				(g) information about a child's psychological or emotional difficulties:
				(h) information about the capacities and strengths of a child and the child's family:
				(i) issues of concern that have been raised with respect to a child's education, including any special education needs:
				(j) information that indicates that a child has a record of a substance abuse problem or a history of violence:
				(k) information about whether a parent or caregiver of a child has a mental illness:
				(l) information about whether a parent or caregiver of a child has a substance abuse problem or a history of domestic violence:
				(m) information about a person who may pose a risk to a child and information about that risk:

Name of agreement	Public service(s) to be facilitated by agreement	Internet address where copy of agreement can be accessed	Lead agency for agreement	Description of personal information or type of personal information to be shared under agreement
				(n) any assessments of a child for the purposes of the Oranga Tamariki Act 1989.
Information sharing to support services for disengaged youth: information sharing agreement between the Ministry of Education and the Ministry of Social Development made on 8 August 2012	To provide services to encourage and help young persons who have ceased to be enrolled at a registered school or a tertiary education organisation to move into, or remain in, education, training, and employment rather than to receiving financial support under the Social Security Act 1964	http://www.youthservice.govt.nz/for-providers/provider-guide/neet-clients/information-sharing.html	Ministry of Social Development	(a) student name (and any alternative names): (b) gender: (c) ethnicity: (d) date of birth: (e) residency information (if known): (f) address: (g) home and mobile phone numbers (if known): (h) email address: (i) schools attended (including geographical regions and deciles): (j) number of schools attended: (k) date left school and year level: (l) leaving reason (for each school): (m) qualification information at time of leaving school: (n) details of any interventions that student may have participated in:

Name of agreement	Public service(s) to be facilitated by agreement	Internet address where copy of agreement can be accessed	Lead agency for agreement	Description of personal information or type of personal information to be shared under agreement
				(o) any information on student's participation in tertiary education.
Information Sharing Agreement for Sharing Permitted Information with Statistics New Zealand	Bona fide research in relation to matters of public interest Production of official statistics by Statistics New Zealand	http://www.justice.govt.nz	Ministry of Justice	Permitted information, being permitted information that is specified in Part B of the items relating to court information in Schedule 2 of the Senior Courts Act 2016, but not including any permitted information suppressed by or under a court order or any enactment Permitted information, being permitted information that is specified in Part B of the items relating to court information in of the District Court Act 2016, but not including any permitted information suppressed by or under a court order or any enactment
Information Sharing Agreement Between Ministry of Social Development And Inland Revenue Department made in July 2017	The accurate and efficient assessment of eligibility for, and entitlement to, benefits and subsidies The accurate and efficient assessment and enforcement of tax obligations, including recovering any associated debt The accurate and efficient assessment and enforcement of obligations relating to benefits and subsidies, including recovering any associated debt	http://www.msd.govt.nz http://www.ird.govt.nz	Inland Revenue	(a) contact information: (b) identifying information: (c) information about domestic relationships, including— (i) the current and previous names, aliases, contact details, and dates of birth of persons with whom an identifiable individual has or

Name of agreement	Public service(s) to be facilitated by agreement		Internet address where copy of agreement can be accessed	Lead agency for agreement	Description of personal information or type of personal information to be shared under agreement	
						had a domestic relationship; and
					(ii)	in relation to any of those persons, information about employment, information about finances and income, information about social assistance, and information about tax:
					(d)	information about employment:
					(e)	information about finances and income:
					(f)	information about social assistance:
					(g)	information about tax.
Information sharing agreement between the Ministry of Justice and the Crown Law Office made on 31 July 2017	(a)	Maintaining an efficient and effective criminal justice system:	http://www.justice.govt.nz	Ministry of Justice	(a)	the CRI given to any proceeding commenced against a person:
	(b)	Improving the quality of public prosecutions:			(b)	permitted information, being permitted information that is specified in Part B of the items relating to court information in Schedule 2 of the Senior Courts Act 2016:
	(c)	Managing the budget for Crown prosecutions.			(c)	permitted information, being permitted

Name of agreement	Public service(s) to be facilitated by agreement	Internet address where copy of agreement can be accessed	Lead agency for agreement	Description of personal information or type of personal information to be shared under agreement
				information that is specified in Part B of the items relating to court information in Schedule 1 of the District Court Act 2016.

Schedule 2A: amended, on 15 September 2017, by clause 14(2) of the Privacy (Information Sharing Agreement between Ministry of Justice and Crown Law Office) Order 2017 (LI 2017/218).

Schedule 2A: amended, on 31 August 2017, by clause 15(2) of the Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Order 2017 (LI 2017/176).

Schedule 2A: amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Schedule 2A: amended, on 27 April 2017, by clause 12(2) of the Privacy (Information Sharing Agreement Between Ministry of Justice and Statistics New Zealand) Order 2017 (LI 2017/51).

Schedule 2A: amended, on 8 July 2016, by section 48(2) of the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016 (2016 No 36).

Schedule 2A: amended, on 3 August 2015, by clause 16 of the Privacy (Information Sharing Agreement for Improving Public Services for Vulnerable Children) Order 2015 (LI 2015/162).

Schedule 2A: amended, on 1 May 2015, by clause 12(2)(a) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Schedule 2A: amended, on 1 May 2015, by clause 12(2)(b) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Schedule 2A: amended, on 11 August 2014, by clause 14 of the Privacy (Information Sharing Agreement between Inland Revenue and Internal Affairs) Order 2014 (LI 2014/223).

Schedule 2A: amended, on 26 June 2014, by clause 14 of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Order 2014 (LI 2014/184).

Schedule 3
Information matching provisions

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Enactment	Information matching provision
Accident Compensation Act 2001	Sections 246, 280, and 281
Accident Insurance Act 1998	Sections 370 and 371 (as saved by section 343 of the Accident Compensation Act 2001)
Births, Deaths, Marriages, and Relationships Registration Act 1995	Sections 78A and 78B
Citizenship Act 1977	Section 26A
Corrections Act 2004	Sections 180 to 180D, 181, 182, and 204
Customs and Excise Act 2018	Sections 306 to 310
Education Act 1989	Sections 128A, 226A, 238B, and 307D
Electoral Act 1993	Sections 263A and 263B
Electronic Identity Verification Act 2012	Section 39
Housing Restructuring and Tenancy Matters Act 1992	Section 68
Immigration Act 2009	Sections 294, 295, 298, 299, and 300
Motor Vehicle Sales Act 2003	Sections 120 to 123
Social Security Act 1964	Sections 126A, 126AB, and 126AC
Social Welfare (Transitional Provisions) Act 1990	Section 19D(3)(b)
Student Loan Scheme Act 2011	Section 208
Tax Administration Act 1994	Sections 46A, 82, 85A, 85B, 85E, and 85H

Schedule 3: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Schedule 3: amended, on 31 August 2017, by section 397(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 3: amended, on 31 August 2017, by section 397(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 3: amended, on 15 July 2013, by section 136 of the Social Security (Benefit Categories and Work Focus) Amendment Act 2013 (2013 No 13).

Schedule 3: amended, on 2 April 2013, by section 76 of the Electronic Identity Verification Act 2012 (2012 No 123).

Schedule 3: amended, on 1 April 2012, by section 223 of the Student Loan Scheme Act 2011 (2011 No 62).

Schedule 3: amended, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Schedule 3: amended, on 20 May 2010, by section 78(3) of the Education Amendment Act 2010 (2010 No 25).

Schedule 3: amended, on 3 March 2010, pursuant to section 5(1)(b) of the Accident Compensation Amendment Act 2010 (2010 No 1).

Schedule 3: amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Schedule 3: amended, on 9 April 2008, by section 7(3) of the Corrections (Social Assistance) Amendment Act 2008 (2008 No 24).

Schedule 3: amended, on 1 April 2007, by section 43(4) of the Student Loan Scheme Amendment Act 2007 (2007 No 13).

Schedule 3: amended, on 1 April 2007, by section 43(5) of the Student Loan Scheme Amendment Act 2007 (2007 No 13).

Schedule 3: amended, on 28 March 2007, by section 43(2) of the Student Loan Scheme Amendment Act 2007 (2007 No 13).

Schedule 3: amended, on 1 July 2006, by section 9 of the Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006 (2006 No 34).

Schedule 3: amended, on 17 May 2006, by section 52(2) of the Education Amendment Act 2006 (2006 No 19).

Schedule 3: amended, on 21 June 2005, by section 3 of the Privacy Amendment Act 2005 (2005 No 80).

Schedule 3: amended, on 1 June 2005, by section 205(2)(a) of the Corrections Act 2004 (2004 No 50).

Schedule 3: amended, on 1 April 2005, by section 25(1) of the Taxation (Working for Families) Act 2004 (2004 No 52).

Schedule 3: amended, on 15 December 2003, by section 145 of the Motor Vehicle Sales Act 2003 (2003 No 12).

Schedule 3: amended, on 19 December 2002, by section 4 of the Citizenship Amendment Act 2002 (2002 No 62).

Schedule 3: amended, on 1 April 2002, by section 337(1) of the Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49).

Schedule 3: amended, on 18 March 2002, by section 101(3) of the Electoral Amendment Act 2002 (2002 No 1).

Schedule 3: amended, on 1 February 2002, by section 83 of the Education Standards Act 2001 (2001 No 88).

Schedule 3: amended, on 23 November 2000, by section 7(a) of the Social Welfare (Transitional Provisions) Amendment Act 2000 (2000 No 88).

Schedule 3: amended, on 23 November 2000, by section 7(b) of the Social Welfare (Transitional Provisions) Amendment Act 2000 (2000 No 88).

Schedule 3: amended, on 15 November 2000, by section 4(1) of the Privacy Amendment Act 2000 (2000 No 76).

Schedule 3: amended, on 1 November 1998, by section 30 of the Summary Proceedings Amendment Act (No 3) 1998 (1998 No 91).

Schedule 3: amended, on 3 September 1996, by section 3 of the Social Security Amendment Act (No 4) 1996 (1996 No 145).

Schedule 3: amended, on 3 September 1996, by section 8(1) of the Privacy Amendment Act 1996 (1996 No 142).

Schedule 3: amended, on 3 September 1996, by section 8(2) of the Privacy Amendment Act 1996 (1996 No 142).

Schedule 4
Information matching rules

ss 97, 99, 107

1 Notice to individuals affected

(1) Agencies involved in an authorised information matching programme shall take all reasonable steps (which may consist of or include public notification) to ensure that the individuals who will be affected by the programme are notified of the programme.

(2) Nothing in subclause (1) requires an agency to notify any individual about an authorised information matching programme if to do so would be likely to frustrate the objective of the programme.

2 Use of unique identifiers

Except as provided in any other enactment, unique identifiers shall not be used as part of any authorised information matching programme unless their use is essential to the success of the programme.

3 On-line transfers

(1) Except with the approval of the Commissioner, information transferred between agencies for the purposes of an authorised information matching programme shall not be transferred by means of on-line computer connections.

(2) Any approval given under subclause (1) may be given either unconditionally or subject to such conditions as the Commissioner thinks fit.

(3) Any approval given under subclause (1) may at any time be withdrawn by the Commissioner; and any condition subject to which any such approval is given may from time to time be revoked, varied, or added to by the Commissioner.

4 Technical standards

(1) The agency primarily responsible for the operation of an authorised information matching programme shall establish and maintain detailed technical standards to govern the operation of the programme.

(2) The technical standards established by an agency in accordance with subclause (1) shall deal with the following matters:

(a) the integrity of the information to be matched, with particular reference to—

(i) key terms and their definition; and

(ii) relevance, timeliness, and completeness:

(b) the matching techniques to be used in the programme, with particular reference to—

(i) the matching algorithm:

(ii) any use of unique identifiers:

(iii) the nature of the matters being sought to be identified by the matching process:

(iv) the relevant information definitions:

(v) the procedure for recognising matches:

(c) the controls being used to ensure the continued integrity of the programme, including the procedures that have been established to confirm the validity of matching results:

(d) the security features included within the programme to minimise and audit access to personal information, including the means by which the information is to be transferred between agencies.

(3) The technical standards established in accordance with subclause (1) shall be incorporated in a written document (in this clause called a Technical Standards Report), and copies of the Technical Standards Report shall be held by all agencies that are involved in the authorised information matching programme.

(4) Variations may be made to a Technical Standards Report by way of a Variation Report appended to the original report.

(5) The agency that prepares a Technical Standards Report shall forward a copy of that report, and of every Variation Report appended to that report, to the Commissioner.

(6) The Commissioner may from time to time direct that a Technical Standards Report be varied, and every such direction shall be complied with by the agency that prepared the report.

(7) Every agency involved in an authorised information matching programme shall comply with the requirements of the associated Technical Standards Report (including any variations made to the report).

5 Safeguards for individuals affected by results of programmes

(1) The agencies involved in an authorised information matching programme shall establish reasonable procedures for confirming the validity of discrepancies before any agency seeks to rely on them as a basis for action in respect of an individual.

(2) Subclause (1) shall not apply if the agencies concerned consider that there are reasonable grounds to believe that the results are not likely to be in error, and in forming such a view regard shall be had to the consistency in content and context of the information being matched.

(3) Where such confirmation procedures do not take the form of checking the results against the source information, but instead involve direct communication with the individual affected, the agency that seeks to rely on the discrepancy as a basis for action in respect of an individual shall notify the individual

affected that no check has been made against the information which formed the basis for the information supplied for the programme.

(4) Every notification in accordance with subclause (3) shall include an explanation of the procedures that are involved in the examination of a discrepancy revealed by the programme.

6 Destruction of information

(1) Personal information that is disclosed, pursuant to an information matching provision, to an agency for use in an authorised information matching programme and that does not reveal a discrepancy shall be destroyed as soon as practicable by that agency.

(2) Where—

(a) personal information is disclosed, pursuant to an information matching provision, to an agency for use in an authorised information matching programme; and

(b) that information reveals a discrepancy,—

that information shall be destroyed by that agency as soon as practicable after that information is no longer needed by that agency for the purposes of taking any adverse action against any individual.

(3) Nothing in this clause applies in relation to the Inland Revenue Department.

7 No new databank

(1) Subject to subclauses (2) and (3), the agencies involved in an authorised information matching programme shall not permit the information used in the programme to be linked or merged in such a way that a new separate permanent register or databank of information is created about all or any of the individuals whose information has been subject to the programme.

(2) Subclause (1) does not prevent an agency from maintaining a register of individuals in respect of whom further inquiries are warranted following a discrepancy revealed by the programme, but information relating to an individual may be maintained on such a register only for so long as is necessary to enable those inquiries to be carried out, and in no case longer than is necessary to enable any adverse action to be taken against an individual.

(3) Subclause (1) does not prevent an agency from maintaining a register for the purpose of excluding individuals from being selected for investigation, but such register shall contain the minimum amount of information necessary for that purpose.

8 Time limits

(1) Where an authorised information matching programme is to continue for any period longer than 1 year, or for an indefinite period, the agencies involved in

the programme shall establish limits on the number of times that matching is carried out pursuant to the programme in each year of its operation.

(2) The limits established in accordance with subclause (1) shall be stated in writing in an annex to the Technical Standards Report prepared in respect of the programme pursuant to clause 4.

(3) The limits established in accordance with subclause (1) may be varied from time to time by the agencies involved in the programme.

Schedule 4A
Identity information

ss 109D, 109G

Schedule 4A: inserted, on 22 August 2017, by section 9 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

Accessing agency	Purpose of access	Holder agency
Department of Corrections	To verify the identity of— (a) a person under control or supervision (as defined in section 3(1) of the Corrections Act 2004): (b) a person who under section 30B of the Bail Act 2000 has been granted bail with an electronic monitoring condition	Department of Internal Affairs MBIE (Immigration) Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) Ministry of Justice New Zealand Police New Zealand Transport Agency
Department of Internal Affairs	To verify the identity of a person who has applied for— (a) the issue of— (i) a New Zealand travel document: (ii) a certificate of New Zealand citizenship: (iii) an electronic identity credential: (b) the registration of a name change	Department of Corrections MBIE (Immigration) Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) New Zealand Police New Zealand Transport Agency
MBIE (Immigration)	To verify the identity of a person— (a) who is seeking to travel to New Zealand: (b) who is arriving in or departing from New Zealand: (c) who is applying for a visa: (d) who an immigration officer has good cause to suspect— (i) has committed an offence against the Immigration Act 2009: (ii) has obtained a visa under a fraudulent identity: (iii) is liable for deportation or turnaround:	Department of Corrections Department of Internal Affairs Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) Ministry of Justice New Zealand Customs Service New Zealand Police New Zealand Transport Agency

Accessing agency	Purpose of access	Holder agency
	(iv) is unlawfully in New Zealand	
Ministry of Health and District Health Boards	To verify the identity of a person who— (a) is being admitted, or returned, to a hospital as a special patient or restricted patient; or (b) is being admitted, or returned, to a secure facility as a special care recipient	Department of Corrections Department of Internal Affairs MBIE (Immigration) New Zealand Police
New Zealand Customs Service	To verify the identity of a person who— (a) is in a Customs controlled area; and (b) is departing, or attempting to depart, from New Zealand	Department of Corrections Department of Internal Affairs MBIE (Immigration) Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) New Zealand Transport Agency
New Zealand Police	To verify the identity of a person— (a) whose identifying particulars have been taken under section 32 or 33 of the Policing Act 2008: (b) whose identifying particulars have been taken under section 11 of the Returning Offenders (Management and Information) Act 2015: (c) who has breached, has attempted to breach, or is preparing to breach a condition of any sentence, or order imposed under any enactment, that the person not leave New Zealand	Department of Corrections Department of Internal Affairs MBIE (Immigration) Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) New Zealand Customs Service New Zealand Transport Agency

Note: A reference in this schedule to MBIE (Immigration) is a reference to the part of the Ministry of Business, Innovation, and Employment that administers the Immigration Act 2009.

Schedule 5
Law enforcement information

ss 111, 113

Schedule 5: replaced, on 27 June 1997, by clause 2 of the Privacy (Fifth Schedule) Order 1997 (SR 1997/86).

Ministry of Justice records

Subject	Description	Access available to
Court document processing	Particulars of proceedings in respect of which informations are to be laid or charging documents filed; the acceptance of data for and the preparations of associated documents	Police Serious Fraud Office Department of Corrections Legal Services Commissioner, limited only to finding out whether or not an applicant for criminal legal aid has any charges currently pending determination by the courts
Details of hearings	Details of hearings of proceedings in respect of which an information has been laid or charging documents filed, including convictions, sentences, and all other matters ancillary and subsequent to a determination	Police (access is limited so as to exclude details relating to young persons, being persons over 14 years but under 17 years, where the offence did not carry a liability to imprisonment) New Zealand Transport Agency (access is limited to traffic cases only) Serious Fraud Office (access is limited so as to exclude details relating to young persons, being persons over 14 years but under 17 years, where the offence did not carry a liability to imprisonment) Department of Corrections Legal Services Commissioner, for the purpose of determining an application for a grant of legal aid (access is limited so as to exclude details relating to young persons, being persons over 14 years but under 17 years, where the offence did not carry a liability to imprisonment)

Ministry of Justice records

Subject	Description	Access available to
Enforcement of fines and other orders	Particulars of writs, warrants, or orders in force and issued or made on default in the payment of fines or other monetary sums ordered in proceedings commenced by indictment or information or filing a charging document; particulars of the persons to whom the writs, warrants, or orders relate; and particulars of fines, sentences, or orders imposed or made against those persons, including the amounts remaining payable thereunder and the arrangements for payment	Police Department of Corrections Legal Services Commissioner, for the purpose of determining an application for a grant of legal aid in relation to a criminal matter
Driver licence stop orders	Particulars of each order served, cancelled, or terminated, the full name, full address, telephone number, driver licence number, and date of birth of the person on whom the order was served; the date and time when the order was served on the person, the date of the cancellation or termination of the order, and any amendments required, as at the date of service, cancellation, or termination, to the person's full address and telephone number	New Zealand Transport Agency (access is limited to recording, on the Driver Licence Register, the service, cancellation, or termination of an order and any amendments required to the person's full address and telephone number, and to replacing a driver licence following the cancellation or termination of the order)
Non-performance of bail conditions	Records relating to failure to comply with bail conditions entered under section 39(3) of the Bail Act 2000	Police

Police records

Subject	Description	Access available to
Details of overseas hearings	Details of hearings of overseas proceedings before overseas courts, including convictions, sentences, and all other matters ancillary and subsequent to a determination	Ministry of Justice Department of Corrections Serious Fraud Office Ministry of Business, Innovation, and Employment (access is limited to obtaining information for the purposes of section 52 of the Outer Space and High-altitude Activities Act 2017)
Police temporary file index	Details of active or recently closed Police files, including the file numbers and location of the files, and the names of complainants, victims, witnesses, suspects, and alleged offenders	Ministry of Justice (access is limited to— (a) obtaining information about parties to offences for the purpose of processing cases before a court: (b) updating Police records)
Offender identity	Particulars of the identity of persons who have been charged with an offence	Department of Corrections (access is limited to identity details for the purposes of— (a) entering information relating to prosecutions initiated otherwise than by the Police; or (ab) undertaking criminal history checks of persons wishing to visit prisons who have consented to such a check; or entering information relating to prosecutions initiated otherwise than by the Police; or (b) research conducted by the department, and with the limitation that information so obtained must not be published in a form which could reasonably be expected to identify the individual concerned) Ministry of Justice (access is limited to— (a) identity details for the purposes of—

Police records

Subject	Description	Access available to
		(i) entering information relating to prosecutions initiated otherwise than by the Police; or (ii) providing assistance to victims in accordance with the Criminal Justice Act 1985, the Sentencing Act 2002, the Parole Act 2002, the Victims' Rights Act 2002, and the Prisoners' and Victims' Claims Act 2005; or (iii) updating an existing database of court proceedings; or (b) obtaining information for the purpose of research conducted by the Ministry, and with the limitation that information so obtained must not be published in a form that could reasonably be expected to identify the individual concerned) Ministry of Business, Innovation, and Employment (access is limited to obtaining information for the purposes of section 52 of the Outer Space and High-altitude Activities Act 2017)
Victim identity	The name, sex, date of birth, address, and telephone number of persons who are the victims of a criminal offence in respect of which another person has been charged	Ministry of Justice (access is limited to identity details for the purpose of providing assistance to victims in accordance with the Criminal Justice Act 1985, the Sentencing Act 2002, the Parole Act 2002, the Victims' Rights Act 2002, and the Prisoners' and Victims' Claims Act 2005)
Medical details	An indicator to identify persons who are or have been special patients under the Mental Health (Compulsory Assessment and Treatment) Act 1992 or any former Act and the	New Zealand Transport Agency (access is limited to obtaining information for the purposes of— (a) subpart 2 of Part 4A of the Land Transport Act 1998; or (b) section 19 of the Land Transport Act 1998

Police records

Subject	Description	Access available to
	hospitals at which those persons are or have been detained as special patients, or as committed patients, or as patients (within the meaning of that Act)	Department of Corrections Ministry of Justice
Traffic offence and infringement enforcement and document processing	Traffic offence and infringement enforcement processing, including infringement fees enforcement and preparation of documents	New Zealand Transport Agency Ministry of Justice (access is limited to obtaining information for the purpose of processing cases before a court) Legal Services Commissioner (access is limited to obtaining information for the purpose of processing cases before a court, and for determining an application for a grant of legal aid relating to a criminal matter)
Vehicles of interest	Particulars of motor vehicles stolen, unlawfully taken, missing, abandoned, or found, or where location is for other reasons required to be known by the Police	Ministry of Transport (access is limited so as to exclude such particulars as the Police may determine in any case)
Vehicles impounded under Land Transport Act 1998	Particulars of an impounded vehicle, including make, model, type, registration plate number, vehicle identification number; the section of the Land Transport Act 1998 under which it is impounded, the date on which it was impounded, and the place where it is impounded; whether any appeals are yet to be determined; particulars of the person who was driving the vehicle immediately before its impoundment, including the full name, full address, telephone number, occupation, driver	Ministry of Justice (access is limited to giving effect to action taken, under Part 3 of the Summary Proceedings Act 1957, to enforce the payment of fines, reparation, and related payments)

Police records

Subject	Description	Access available to
	licence number, and date of birth of that person and the same particulars also for every person, other than that driver, who is registered in respect of the vehicle	
Wanted persons	Particulars concerning persons wanted for arrest	New Zealand Transport Agency (access is limited to obtaining information for the purposes of— (a) subpart 2 of Part 4A of the Land Transport Act 1998: (b) carrying out the functions conferred on the Agency by section 95(1) of the Land Transport Management Act 2003: (c) carrying out the functions conferred on the Agency by the notice dated 22 August 1993 and published in the *Gazette* on 2 September 1993 at page 2626) Ministry of Justice (access is limited to persons wanted in connection with fines enforcement) Ministry of Business, Innovation, and Employment (access is limited to obtaining information for the purposes of section 52 of the Outer Space and High-altitude Activities Act 2017)
Missing persons	Particulars concerning persons missing or required to be located	New Zealand Transport Agency (access is limited so as to exclude such particulars as the Police may determine in any case) Ministry of Justice (access is limited to persons required to be located in connection with fines enforcement)
Firearms licences	Particulars of persons authorised to possess firearms in accordance with the Arms Act 1983	Ministry of Justice (access is limited to identity details of persons who possess firearms, where that information is required

Police records

Subject	Description	Access available to
		for the purpose of serving orders made under the Domestic Violence Act 1995)
Protection orders	Details of protection orders made under the Domestic Violence Act 1995	Department of Corrections (access is limited to obtaining information about any offender who is subject to a protection order while also subject to— (a) a full-time custodial sentence (including while released on parole or subject to conditions imposed under section 93 of the Sentencing Act 2002); or (b) a sentence of periodic detention, supervision, intensive supervision, community service, community programme, community work, or community detention; or (c) a non-association order; or (d) a sentence of home detention (including while subject to post-detention conditions); or (e) a public protection order, a prison detention order, or a protective supervision order under the Public Safety (Public Protection Orders) Act 2014; or (f) an extended supervision order. Access is for the purpose of managing the offender's sentence, any post-sentence conditions, or any order under the Public Safety (Public Protection Orders) Act 2014 in a manner consistent with any protection order.)
Restraining orders	Details of restraining orders made under the Harassment Act 1997	Department of Corrections (access is limited to obtaining information about any offender who is subject to a restraining order while also subject to—

Police records

Subject	Description	Access available to
		(a) a full-time custodial sentence (including while released on parole or subject to conditions imposed under section 93 of the Sentencing Act 2002); or (b) a sentence of periodic detention, supervision, intensive supervision, community service, community programme, community work, or community detention; or (c) a non-association order; or (d) a sentence of home detention (including while subject to post-detention conditions); or (e) a public protection order, a prison detention order, or a protective supervision order under the Public Safety (Public Protection Orders) Act 2014; or (f) an extended supervision order. Access is for the purpose of managing the offender's sentence, any post-sentence conditions, or any order under the Public Safety (Public Protection Orders) Act 2014 in a manner consistent with any restraining order.)
Non-contact orders	Details of non-contact orders made under the Victims' Orders Against Violent Offenders Act 2014	Department of Corrections (access is limited to obtaining information about any offender who is subject to a non-contact order while also subject to— (a) a full-time custodial sentence (including while released on parole or subject to an extended supervision order made under section 107I of the Parole Act 2002 or to conditions imposed under section 93 of the Sentencing Act 2002); or

(b) a sentence of intensive supervision, community detention, community work, or supervision; or

(c) a non-association order; or

(d) a sentence of home detention (including while subject to post-detention conditions); or

(e) an extended supervision order.

Access is for the purpose of managing the offender's sentence and any post-sentence conditions in a manner consistent with any non-contact order.)

New Zealand Transport Agency records

Subject	Description	Access available to
Driver licence register (except photographic images on driver licences)	A national register of all driver licences	Department of Corrections Ministry of Justice Police Local authorities authorised under section 112 Serious Fraud Office Ministry of Transport (access is limited to obtaining information for the purpose of verifying the identity of people who are or apply to be— (a) *[Repealed]* (b) holders of licences issued under the Road User Charges Act 2012 Registrar of Motor Vehicles (access is limited to obtaining information for the purposes of—

New Zealand Transport Agency records

Subject	Description	Access available to
		(a) verifying the identity of people who are or apply to be registered in respect of motor vehicles on the register of motor vehicles; or (b) correcting or updating information held on the register of motor vehicles about such people)
Transport services licensing register	A national register of all transport service licences	Police
Demerit points	The recording of demerit points in relation to traffic offences	Police
Rail licensing register	A national register of all licences under the Railways Act 2005	Police

Registrar of Motor Vehicles records

Subject	Description	Access available to
Motor vehicles register	A national register of all motor vehicles	Ministry of Justice (including for the purpose of enforcing civil debts) Ministry of Transport Police Local authorities authorised under section 112 Serious Fraud Office WorkSafe New Zealand (access is limited to name and address details of persons who are or were previously registered in respect of a specified vehicle for the purposes of enforcing the health and safety in employment legislation)

Registrar of Motor Vehicles records

Subject	Description	Access available to
		Ministry of Business, Innovation, and Employment (access is limited to name and address details of persons who are or were previously registered in respect of a specified vehicle for the purposes of enforcing immigration legislation)
		Ministry of Fisheries (access is limited to name and address details of persons who are or were previously registered in respect of a specified vehicle for the purposes of enforcing fisheries legislation and any other enactment that confers enforcement powers on fisheries officers)
		New Zealand Customs Service (access is limited to obtaining information for the purposes of enforcing legislation for which the Service has enforcement powers)
		New Zealand Transport Agency (access is limited to obtaining information for the purposes of carrying out the functions conferred on the Agency by— (a) section 95(1) of the Land Transport Management Act 2003: (b) the notice dated 22 August 1993 and published in the *Gazette* on 2 September 1993 at page 2626)
		Legal Services Commissioner (access is limited to obtaining information for the purpose of determining financial eligibility of an applicant for a grant of legal aid in relation to a criminal matter)
		An enforcement authority under the Land Transport Management Act 2003.

Ministry of Transport records

Subject	Description	Access available to
Road user charges	Details of licences issued under the Road User Charges Act 1977 and details of the corresponding licence holders	Police (access is limited to obtaining information for the purpose of enforcing the Road User Charges Act 1977) New Zealand Transport Agency (access is limited to obtaining information for the purposes of carrying out the functions conferred on the Agency by— (a) section 95(1) of the Land Transport Management Act 2003: (b) the notice dated 22 August 1993 and published in the *Gazette* on 2 September 1993 at page 2626)

Department of Corrections records

Subject	Description	Access available to
Community-based sentences, sentences of home detention, and conditions of release	Particulars of persons— (a) released on probation or parole, or released on conditions under Part 6 of the Criminal Justice Act 1985, or sentenced to community service, periodic detention, supervision, or a community programme; or (b) released on parole, home detention, or compassionate release under subpart 2 of Part 1 of the Parole Act 2002 or sentenced to supervision, intensive supervision, community work, community detention, or home detention.	Police (access is limited to— (a) the person's area of reporting: (b) in the case of a person released from a prison, the conditions of the person's release (whether imposed on release or imposed or varied subsequently, and including any direction issued to that person by a probation officer) Ministry of Justice
Extended supervision orders	Details of extended supervision orders made under Part 1A of the Parole Act 2002	Police (access is for the purpose of managing the conditions of the extended supervision order)

Department of Corrections records

Subject	Description	Access available to
Records of prisoners	Particulars of prisoners in a prison, including the date of release from the prison	Police (access is limited to the location and the date of release of the prisoner) Ministry of Justice

Schedule 5: amended, on 21 December 2017, by section 93(2) of the Outer Space and High-altitude Activities Act 2017 (2017 No 29).

Schedule 5: amended, on 21 December 2017, by section 93(3) of the Outer Space and High-altitude Activities Act 2017 (2017 No 29).

Schedule 5: amended, on 21 December 2017, by section 93(4) of the Outer Space and High-altitude Activities Act 2017 (2017 No 29).

Schedule 5: amended, on 30 December 2014, by section 30(2) of the Victims' Orders Against Violent Offenders Act 2014 (2014 No 45).

Schedule 5: amended, on 12 December 2014, by section 30(2) of the Parole (Extended Supervision Orders) Amendment Act 2014 (2014 No 69).

Schedule 5: amended, on 12 December 2014, by section 30(3) of the Parole (Extended Supervision Orders) Amendment Act 2014 (2014 No 69).

Schedule 5: amended, on 12 December 2014, by section 30(4) of the Parole (Extended Supervision Orders) Amendment Act 2014 (2014 No 69).

Schedule 5: amended, on 12 December 2014, by section 30(5) of the Parole (Extended Supervision Orders) Amendment Act 2014 (2014 No 69).

Schedule 5: amended, on 12 December 2014, by section 143(2) of the Public Safety (Public Protection Orders) Act 2014 (2014 No 68).

Schedule 5: amended, on 12 December 2014, by section 143(3) of the Public Safety (Public Protection Orders) Act 2014 (2014 No 68).

Schedule 5: amended, on 12 December 2014, by section 143(4) of the Public Safety (Public Protection Orders) Act 2014 (2014 No 68).

Schedule 5: amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Schedule 5: amended, on 1 November 2013, by section 5 of the Privacy Amendment Act 2011 (2011 No 44).

Schedule 5: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Schedule 5: amended, on 13 June 2013, by section 72 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Schedule 5: amended, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

Schedule 5: amended, on 1 July 2011, by section 144 of the Legal Services Act 2011 (2011 No 4).

Schedule 5: amended, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Schedule 5: amended, on 1 December 2009, by section 4 of the Privacy Amendment Act 2009 (2009 No 39).

Schedule 5: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Schedule 5: amended, on 1 October 2007, by section 58 of the Sentencing Amendment Act 2007 (2007 No 27).

Schedule 5: amended, on 1 October 2007, by section 95(6) of the Land Transport Amendment Act 2005 (2005 No 77).

Schedule 5: amended, on 20 September 2007, by section 4(1) of the Privacy Amendment Act 2007 (2007 No 73).

Schedule 5: amended, on 20 September 2007, by section 4(2)(a) of the Privacy Amendment Act 2007 (2007 No 73).

Schedule 5: amended, on 20 September 2007, by section 4(3) of the Privacy Amendment Act 2007 (2007 No 73).

Schedule 5: amended, on 20 September 2007, by section 4(4) of the Privacy Amendment Act 2007 (2007 No 73).

Schedule 5: amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Schedule 5: amended, on 4 June 2005, by section 75(a) of the Prisoners' and Victims' Claims Act 2005 (2005 No 74).

Schedule 5: amended, on 4 June 2005, by section 75(b) of the Prisoners' and Victims' Claims Act 2005 (2005 No 74).

Schedule 5: amended, on 1 June 2005, by section 205(3) of the Corrections Act 2004 (2004 No 50).

Schedule 5: amended, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

Schedule 5: amended, on 1 December 2004, by section 19(1) of the Land Transport Management Amendment Act 2004 (2004 No 97).

Schedule 5: amended, on 1 October 2003, by section 12(3) of the State Sector Amendment Act 2003 (2003 No 41).

Schedule 5: amended, on 19 December 2002, by section 4 of the Privacy Amendment Act 2002 (2002 No 73).

Schedule 5: amended, on 17 December 2002, by section 53 of the Victims' Rights Act 2002 (2002 No 39).

Schedule 5: amended, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

Schedule 5: amended, on 1 February 2001, by section 128 of the Legal Services Act 2000 (2000 No 42).

Schedule 5: amended, on 1 January 2001, by section 74(2) of the Bail Act 2000 (2000 No 38).

Schedule 5: amended, on 1 March 1999, by section 215(1) of the Land Transport Act 1998 (1998 No 110).

Schedule 5: amended, on 3 June 1998, by section 2 of the Privacy Amendment Act 1998 (1998 No 57).

Schedule 5A
Basic principles of national application set out in Part Two of the OECD Guidelines

s 114B(1)(b)

Schedule 5A: inserted, on 8 September 2010, by section 10 of the Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113).

Collection limitation principle

There should be limits to the collection of personal data and any such data should be obtained by lawful and fair means and, where appropriate, with the knowledge or consent of the data subject.

Data quality principle

Personal data should be relevant to the purposes for which they are to be used, and, to the extent necessary for those purposes, should be accurate, complete and kept up-to-date.

Purpose specification principle

The purposes for which personal data are collected should be specified not later than at the time of data collection and the subsequent use limited to the fulfilment of those purposes or such others as are not incompatible with those purposes and as are specified on each occasion of change of purpose.

Use limitation principle

Personal data should not be disclosed, made available or otherwise used for purposes other than those specified in accordance with [the Purpose specification principle above] except:

(a) with the consent of the data subject; or

(b) by the authority of law.

Security safeguards principle

Personal data should be protected by reasonable security safeguards against such risks as loss or unauthorised access, destruction, use, modification or disclosure of data.

Openness principle

There should be a general policy of openness about developments, practices and policies with respect to personal data. Means should be readily available of establishing the existence and nature of personal data, and the main purposes of their use, as well as the identity and usual residence of the data controller.

Individual participation principle

An individual should have the right:

(a) to obtain from a data controller, or otherwise, confirmation of whether or not the data controller has data relating to him;

(b) to have communicated to him, data relating to him

- within a reasonable time;
- at a charge, if any, that is not excessive;
- in a reasonable manner; and
- in a form that is readily intelligible to him;

(c) to be given reasons if a request made under subparagraphs (a) and (b) is denied, and to be able to challenge such denial; and

(d) to challenge data relating to him and, if the challenge is successful to have the data erased, rectified, completed or amended.

Accountability principle

A data controller should be accountable for complying with measures which give effect to the principles stated above.

Schedule 6
Enactments amended

s 129(1)

Films Act 1983 (1983 No 130)

Amendment(s) incorporated in the Acts(s).

Goods and Services Tax Act 1985 (1985 No 141) (RS Vol 27, p 425)

Amendment(s) incorporated in the Act(s).

Higher Salaries Commission Act 1977 (1977 No 110) (RS Vol 19, p 623)

Amendment(s) incorporated in the Acts(s).

New Zealand Security Intelligence Service Act 1969 (1969 No 24) (RS Vol 21, p 559)

Amendment(s) incorporated in the Act(s).

Public Finance Act 1989 (1989 No 44)

Amendment(s) incorporated in the Acts(s).

Race Relations Act 1971 (1971 No 150) (RS Vol 14, p 479)

Amendment(s) incorporated in the Acts(s).

Securities Act 1978 (1978 No 103) (RS Vol 15, p 533)

Amendment(s) incorporated in the Act(s).

Summary Proceedings Act 1957 (1957 No 87) (RS Vol 9, p 583)

Amendment(s) incorporated in the Act(s).

Transport Act 1962 (1962 No 135) (RS Vol 16, p 659)

Amendment(s) incorporated in the Act(s).

Schedule 7
Enactments repealed

s 129(2)

Accident Rehabilitation and Compensation Insurance Act 1992 (1992 No 13)
Amendment(s) incorporated in the Act(s).

Children, Young Persons, and Their Families Act 1989 (1989 No 24)
Amendment(s) incorporated in the Act(s).

Criminal Justice Act 1985 (1985 No 120)
Amendment(s) incorporated in the Act(s).

Defamation Act 1992 (1992 No 105)
Amendment(s) incorporated in the Act(s).

Higher Salaries Commission Amendment Act 1988 (1988 No 24)
Amendment(s) incorporated in the Act(s).

Parliamentary Service Act 1985 (1985 No 128)
Amendment(s) incorporated in the Act(s).

Police Amendment Act 1989 (1989 No 138)
Amendment(s) incorporated in the Act(s).

Privacy Commissioner Act 1991 (1991 No 126)

Public Finance Amendment Act 1992 (1992 No 142)
Amendment(s) incorporated in the Act(s).

Serious Fraud Office Act 1990 (1990 No 51)
Amendment(s) incorporated in the Act(s).

Transport Amendment Act 1980 (1980 No 96)
Amendment(s) incorporated in the Act(s).

Transport Amendment Act (No 2) 1992 (1992 No 67)
Amendment(s) incorporated in the Act(s).

Wanganui Computer Centre Act 1976 (1976 No 19)

Wanganui Computer Centre Amendment Act 1977 (1977 No 83)

Wanganui Computer Centre Amendment Act 1979 (1979 No 118)

Wanganui Computer Centre Amendment Act 1980 (1980 No 52)

Wanganui Computer Centre Amendment Act 1983 (1983 No 122)

Wanganui Computer Centre Amendment Act 1985 (1985 No 52)

Wanganui Computer Centre Amendment Act 1986 (1986 No 10)

Wanganui Computer Centre Amendment Act 1989 (1989 No 5)

Schedule 8
Orders revoked

s 129(3)

Wanganui Computer Centre Act Commencement Order 1977 (SR 1977/8)

Wanganui Computer Centre Order 1981 (SR 1981/13)

Wanganui Computer Centre Order 1987 (SR 1987/403)

Wanganui Computer Centre Order 1992 (SR 1992/104)

Reprints notes

1 General

This is a reprint of the Privacy Act 1993 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 Legal status

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 Editorial and format changes

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also http://www.pco.parliament.govt.nz/editorial-conventions/.

4 Amendments incorporated in this reprint

Education (Teaching Council of Aotearoa New Zealand) Amendment Act 2018 (2018 No 35): section 12(1)

Customs and Excise Act 2018 (2018 No 4): section 443(3)

Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42): Part 1

Privacy (Information Sharing Agreement between Ministry of Justice and Crown Law Office) Order 2017 (LI 2017/218): clause 14

Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Order 2017 (LI 2017/176): clause 15

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31): section 149

Land Transfer Act 2017 (2017 No 30): section 250

Outer Space and High-altitude Activities Act 2017 (2017 No 29): section 93

Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14): sections 396, 397

Intelligence and Security Act 2017 (2017 No 10): sections 313–317, 335

Privacy (Information Sharing Agreement Between Ministry of Justice and Statistics New Zealand) Order 2017 (LI 2017/51): clause 12

Contract and Commercial Law Act 2017 (2017 No 5): section 347

Patents (Trans-Tasman Patent Attorneys and Other Matters) Amendment Act 2016 (2016 No 89): section 8

Judicial Review Procedure Act 2016 (2016 No 50): section 24

District Court Act 2016 (2016 No 49): section 261

Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016 (2016 No 36): section 48

Harmful Digital Communications Act 2015 (2015 No 63): sections 40, 41

Privacy (Information Sharing Agreement for Improving Public Services for Vulnerable Children) Order 2015 (LI 2015/162): clause 16

Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62): clause 12

Parole (Extended Supervision Orders) Amendment Act 2014 (2014 No 69): section 30

Public Safety (Public Protection Orders) Act 2014 (2014 No 68): section 143

Financial Reporting Amendment Act 2014 (2014 No 64): section 17

Victims' Orders Against Violent Offenders Act 2014 (2014 No 45): section 30

Food Act 2014 (2014 No 32): section 447

Privacy (Information Sharing Agreement between Inland Revenue and Internal Affairs) Order 2014 (LI 2014/223): clause 14

Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Order 2014 (LI 2014/184): clause 14

Arts Council of New Zealand Toi Aotearoa Act 2014 (2014 No 1): section 27

Companies Amendment Act 2013 (2013 No 111): section 14

Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97): section 25

Health and Safety in Employment Amendment Act 2013 (2013 No 95): section 26

WorkSafe New Zealand Act 2013 (2013 No 94): section 22

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Patents Act 2013 (2013 No 68): section 249

Inquiries Act 2013 (2013 No 60): section 39

Land Transport Management Amendment Act 2013 (2013 No 35): section 72

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Social Security (Benefit Categories and Work Focus) Amendment Act 2013 (2013 No 13): sections 35, 136

Student Loan Scheme Amendment Act 2013 (2013 No 10): section 50

Privacy Amendment Act 2013 (2013 No 1)

Electronic Identity Verification Act 2012 (2012 No 123): section 76

Legislation Act 2012 (2012 No 119): section 77(3)

Wine Amendment Act 2012 (2012 No 70): section 17

Animal Products Amendment Act 2012 (2012 No 59): section 19

Agricultural Compounds and Veterinary Medicines Amendment Act 2012 (2012 No 58): section 21

Road User Charges Act 2012 (2012 No 1): section 94

Criminal Procedure Act 2011 (2011 No 81): section 413

Student Loan Scheme Act 2011 (2011 No 62): section 223

Electoral (Administration) Amendment Act 2011 (2011 No 57): section 59(2)

Privacy Amendment Act 2011 (2011 No 44)

Auditor Regulation Act 2011 (2011 No 21): section 82

Legal Services Act 2011 (2011 No 4): section 144

Electoral Referendum Act 2010 (2010 No 139): section 81(2)

Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137): section 40(2)

Private Security Personnel and Private Investigators Act 2010 (2010 No 115): section 121(1)

Privacy (Cross-border Information) Amendment Act 2010 (2010 No 113)

Insurance (Prudential Supervision) Act 2010 (2010 No 111): section 241(2)

Education Amendment Act 2010 (2010 No 25): section 78(2), (3)

Accident Compensation Amendment Act 2010 (2010 No 1): section 5(1)(b)

Insolvency Amendment Act 2009 (2009 No 52): section 21(2)

Immigration Act 2009 (2009 No 51): section 406(1)

Privacy Amendment Act 2009 (2009 No 39)

Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34): section 861

Land Transport Amendment Act 2009 (2009 No 17): section 35(4)

Financial Service Providers (Registration and Dispute Resolution) Act 2008 (2008 No 97): section 81

Policing Act 2008 (2008 No 72): section 116(a)(vii)

Real Estate Agents Act 2008 (2008 No 66): section 173

Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48): section 47

Land Transport Management Amendment Act 2008 (2008 No 47): section 50(1)

Criminal Disclosure Act 2008 (2008 No 38): section 39

Corrections (Social Assistance) Amendment Act 2008 (2008 No 24): section 7(2), (3)

Limited Partnerships Act 2008 (2008 No 1): section 120

Income Tax Act 2007 (2007 No 97): section ZA 2(1)

Privacy Amendment Act 2007 (2007 No 73)

Building Societies Amendment Act 2007 (2007 No 43): section 8(2)

Sentencing Amendment Act 2007 (2007 No 27): section 58

Immigration Advisers Licensing Act 2007 (2007 No 15): section 96

Student Loan Scheme Amendment Act 2007 (2007 No 13): section 43(2), (4) and (5)

Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74): section 185

Electricity Amendment Act 2006 (2006 No 70): section 43

Climate Change Response Amendment Act 2006 (2006 No 59): section 33

Insolvency Act 2006 (2006 No 55): section 445

Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006 (2006 No 34): sections 8, 9

Education Amendment Act 2006 (2006 No 19): section 52(2)

Privacy Amendment Act 2006 (2006 No 11)

Veterinarians Act 2005 (2005 No 126): section 102

Privacy Amendment Act 2005 (2005 No 80)

Land Transport Amendment Act 2005 (2005 No 77): section 95(6)

Prisoners' and Victims' Claims Act 2005 (2005 No 74): sections 74, 75

Citizenship Amendment Act 2005 (2005 No 43): section 16

Registered Architects Act 2005 (2005 No 38): section 83

Railways Act 2005 (2005 No 37): section 103(3)

Relationships (Statutory References) Act 2005 (2005 No 3): section 7

Crown Entities Act 2004 (2004 No 115): section 200

Civil Union Act 2004 (2004 No 102): section 46

Land Transport Management Amendment Act 2004 (2004 No 97): section 19(1)

Building Act 2004 (2004 No 72): section 414

Secondhand Dealers and Pawnbrokers Act 2004 (2004 No 70): section 89

Taxation (Working for Families) Act 2004 (2004 No 52): section 25(1)

Corrections Act 2004 (2004 No 50): sections 205(2)(a), (3), 206

Wine Act 2003 (2003 No 114): section 126

Privacy Amendment Act 2003 (2003 No 94)

Supreme Court Act 2003 (2003 No 53): section 48(1)

Gambling Act 2003 (2003 No 51): section 374

Health Practitioners Competence Assurance Act 2003 (2003 No 48): section 175(1)

State Sector Amendment Act 2003 (2003 No 41): sections 12(3), 14(1)

Social Workers Registration Act 2003 (2003 No 17): section 149

Motor Vehicle Sales Act 2003 (2003 No 12): section 145

Local Government Act 2002 (2002 No 84): section 262

Land Transfer Regulations 2002 (SR 2002/213): regulation 44

Privacy Amendment Act 2002 (2002 No 73)

Citizenship Amendment Act 2002 (2002 No 62): section 4

Trade Marks Act 2002 (2002 No 49): section 201

Victims' Rights Act 2002 (2002 No 39): section 53

Chartered Professional Engineers of New Zealand Act 2002 (2002 No 17): section 72

Sentencing Act 2002 (2002 No 9): section 186

Local Government (Rating) Act 2002 (2002 No 6): section 137(1)

Electoral Amendment Act 2002 (2002 No 1): section 101(3)

Public Trust Act 2001 (2001 No 100): section 170(1)

Human Rights Amendment Act 2001 (2001 No 96): section 71(1)

Education Standards Act 2001 (2001 No 88): section 83

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49): section 337(1)

Local Electoral Act 2001 (2001 No 35): section 151

Public Audit Act 2001 (2001 No 10): section 52

Social Welfare (Transitional Provisions) Amendment Act 2000 (2000 No 88): section 7

Privacy Amendment Act 2000 (2000 No 76)

Legal Services Act 2000 (2000 No 42): section 128

Bail Act 2000 (2000 No 38): section 74(2)

Radiocommunications Amendment Act 2000 (2000 No 8): section 61

Personal Property Securities Act 1999 (1999 No 126): section 191(1)

Animal Products (Ancillary and Transitional Provisions) Act 1999 (1999 No 94): section 8(1)

Sale of Liquor Amendment Act 1999 (1999 No 92): section 125

Land Transport Act 1998 (1998 No 110): section 215(1)

Employment Services and Income Support (Integrated Administration) Act 1998 (1998 No 96): section 11

Summary Proceedings Amendment Act (No 3) 1998 (1998 No 91): section 30

Rating Valuations Act 1998 (1998 No 69): section 54(1)

Privacy Amendment Act 1998 (1998 No 57)

Privacy Amendment Act 1997 (1997 No 71)

Privacy (Fifth Schedule) Order 1997 (SR 1997/86)

Social Security Amendment Act (No 4) 1996 (1996 No 145): section 3

Privacy Amendment Act 1996 (1996 No 142)

Fisheries Act 1996 (1996 No 88): section 316(1)

Inspector-General of Intelligence and Security Act 1996 (1996 No 47): sections 32, 33

Dog Control Act 1996 (1996 No 13): section 79

Electoral Amendment Act (No 2) 1995 (1995 No 61): section 96

Radio New Zealand Act (No 2) 1995 (1995 No 53): section 2

Births, Deaths, and Marriages Registration Act 1995 (1995 No 16): section 95

Health and Disability Commissioner Act 1994 (1994 No 88): section 81(1)–(3)

Privacy Amendment Act 1994 (1994 No 70)

Human Rights Act 1993 (1993 No 82): section 145

Privacy Amendment Act 1993 (1993 No 59)

Privacy Act 1993 (1993 No 28): sections 114, 129B

Public Finance Act 1989 (1989 No 44): section 65R(3)

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